OFFICE OF THE MAYOR
SAN FRANCISCO

TREASURE ISLAND PROJECT
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BUILDING 1, 2ND FLOOR
TREASURE ISLAND
SAN FRANCISCO, CA 94130
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WILLIE LEWIS BROWN, JR.

TREASURE ISLAND DEVELOPMENT AUTHORITY
MEETING AGENDA
Wednesday, November 14, 2001 1 P.M.

Room 400, City Hall
1 Dr. Carlton Goodlett Place

Willie L. Brown, Jr., Mayor

DIRECTORS

John Elberling, Vice-Chairman
William Fazande
Marcia Rosen
Claudine Cheng
Gerald Green
Susan Po-Rufino
Doug Wong

Annemarie Conroy, Executive Director
London Breed, Commission Secretary

ORDER OF BUSINESS

1. Call to Order and Roll Call
2. Approval of Minutes (*Action Item*)
3. Communications (*Discussion Item*)
4. Report of the Treasure Island Project by Executive Director Annemarie Conroy (*Discussion Item*)
   - Report on access to Treasure Island including public use last month
   - Status of environmental clean up
   - Report on short-term leases
   - Report on San Francisco-Oakland Bay Bridge/Caltrans issues
   - Report on Treasure Island community issues
   - Report on Citizens Advisory Board
   - Report on TIHDI
   - Financial Report
   - Legislation/hearings affecting Treasure Island
5. General Public Comment (*Discussion Item*)
6. Ongoing Business by Directors and Introduction of New Business by members *(Discussion Item)*
7. Resolution authorizing a reduction in the dollar amount requested in a grant application to the California Technology Trade and Commerce Agency for a California Defense Adjustment Matching (CDAM) Grant *(Action Item)*
8. Resolution Approving the Second Amendment to the Exclusive Negotiating Agreement with Treasure Island Enterprises Granting the Executive Director the Authority to Extend the Term of the Agreement *(Action Item)*

9. Resolution Approving the First Amendment to the Interim Sublease with Treasure Island Enterprises to Provision Regarding Repair and Maintenance Work, Improvement Allowance, and Books, Records and Reports *(Action Item)*
10. Resolution Approving the Term Sheet for the Disposition and Development Agreement and Groundlease Between the Treasure Island Development Authority and Treasure Island Enterprises for the Redevelopment of the Treasure Island Marina at Clipper Cove *(Action Item)*
11. Adjourn

Relevant documents such as resolutions, staff summaries, leases, subleases are available at the Treasure Island Project Office and the Government Information Center at the Main Library, 100 Larkin Street. Public comment is taken on each item on the agenda.

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TREASURE ISLAND WEBSITE

Check out the Treasure Island website at www.ci.sf.ca.us/treasureisland to find out about activities and facilities on Treasure Island, special events venues for rent, or to review the Treasure Island Development Authority's agendas and minutes.

Notes

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Minutes of Special Meeting
Treasure Island Development Authority
October 17, 2001

1. Call to Order: 9:10 AM

Roll Call Present: John Elberling
William Fazande
Marcia Rosen
Claudine Cheng (11:11 AM Departure)
Doug Wong (9:17 AM Arrival, 10:43 AM Departure)
Gerald Green (10:01 AM Approval)

Excused: Susan Po-Rufino

2. Approval of Minutes: The minutes of September 12, 2001 were approved unanimously.
3. Public Comment on Closed Session: None.
4. Closed Session: London Breed, Commission Secretary, states that closed session will be a conference with real property negotiator. Persons negotiating will be Annemarie Conroy, Donnell Choy and Stephen Proud. The negotiating parties are the U.S. Navy and the Treasure Island Development Authority.
Rosen moves approval to enter into closed session. Fazande seconds. Approved 4-0
5. Reconvene in open session: No report on action taken in closed session.
Wong moves not to disclose actions taken in closed session. Cheng seconds. Approved 5-0
6. Communications: Ms. Breed states there are no new communications.
7. Report of the Treasure Island Project by Executive Director, Annemarie Conroy:
   - Open Access - Ms. Conroy reports on upcoming events on Treasure Island. The Mayor's office continues to facilitate senior bus tours of TI and YBI on a regular basis. Williams-Sonoma is using the Nimitz House for its Pottery Barn photo shoots. Battlebots will hold their second event on TI in November, which continues to be a good revenue source. The Triathlon is in its final planning stage and will be held on November 3, 2001. Fleet Week was cancelled this year due to the September 11 attacks.
   - Environmental Cleanup: The project office has review and commented on the Engineering Evaluation & Cost Analysis provided in draft form by the Navy. Comments include exploring additional remedies and perhaps better alternatives for clean up of TI.
   - Short-term leases: New leases are on the agenda for approval by the Authority. Due to the events of Sept. 11 and the state of the economy, Sean Penn will not be bringing his movie to Treasure Island.
   - Bay Bridge: No new developments in mitigation negotiations. Caltrans will be send out the first bid packages in November or December.
   - Treasure Island Community: Muni has placed additional personnel at the Transbay Terminal to ensure the safety of all riders. The Job Corps has informed the project office that they plan to open a small convenience store in five weeks. A community meeting will be held tonight and after that they will meet every other month. The annual TIHDI picnic will be this Saturday.
   - Citizens' Advisory Board: Karen Knowles-Pearce, CAB chair, reports that at their last meeting they reviewed the BAE report and the three options therein. The CAB recommends to TIDA Option 1. In addition a second vote was taken on the previous vote to recommend TICD as the primary developer and again it passed unanimously.
   - TIHDI: The Child Care Center is on today's agenda.
   - Financial Report: The project office has made some headway with the Board of Supervisor's Finance Committee regarding the Tidelands Trust and restrictions on our revenues. Details are being finalized,

with the City Attorney, and a memo to the Finance Committee regarding our budget and those restrictions. The Finance Committee did decide to reduce the Authority's fire bill. The memo will outline general fund responsibilities versus TI Authority responsibilities in regard to Treasure Island.

- Legislation/Hearings: There are currently none, other than the finance memo already discussed.

8. General Public Comment. None
9. Ongoing Business by Director's and Introduction of New Business: Mr. Elberling refers to the City Attorney's October 5 memo regarding election of officers. He asks that the Authority elect new officers at the next meeting and that it be on the agenda. Nominations can be submitted to the Executive Director during the intervening period. Mr. Choy states that the by-laws call for the election of a President, Vice-President and a Secretary but in the past there have been just two officers elected, one serves as President and one serves as Vice-President, Secretary and Chief Financial Officer. Mr. Elberling asks who is our CFO? Mr. Choy responds that Mr. Elberling has been serving as such since he was elected VP in 1998 and also a resolution was passed in 1998 whereby the Mayor's Office TI Project served as the staff and most of the responsibilities of these offices were delegated to TI staff. Ms. Conroy suggests waiting until January so the officer's terms would run with the calendar year. Ms. Rosen suggests we all agree on how many positions we will be nominating. Ms. Cheng suggests December elections with the term starting in January. It is decided the election will take place at the December meeting.
10. A resolution authorizing the Executive Director to enter into a lease between the Treasure Island Development Authority and United States Navy for the Childcare Center on Treasure Island.
11. A resolution authorizing the Executive Director to enter into a sublease between TIDA and Tri-Cities Children's Centers for the childcare facility on Treasure Island.

Stephen Proud, Director of Development for TIDA, reports that in July of this year, TIHDI issued a RFP for an operator for a childcare center. Their review committee ultimately selected Tri-Cities Children's Centers to be the operator. Under the terms of the homeless agreement, TIHDI has the ability to request a sublease from the Authority for the use of the childcare center, the exact wording being "once funding for operations and an adequate operator with experience has been secured and is demonstrated". We feel they have secured, through their RFP process, an operator that has the required experience and the financial capacity to undertake the childcare center. The center is proposed to serve 12 infants, 16 toddlers and 64 pre-school aged children. The hours of the center will be from 7 a.m. to 6 p.m. TIHDI has secured about $850,000 in funding for renovations and to start the project. The first item for approval is a five-year master lease with the Navy for the facility. The second item is then a sublease with Tri-Cities for the center. There is no rent being charged but they are responsible for maintenance and utilities. The proposed term of the sublease is five years. Exhibit A shows the four issues legislation requires us to make findings on in order to enter into the sublease: 1) no immediate trust related need for the property, 2) the proposed lease is of a duration of no more than five years and can be terminated in favor of trust uses as they arise, 3) the proposed lease prohibits construction of new structures or improvements that could prohibit the property from being used for trust purposes and, 4) the lease would not interfere with commerce, navigation or fisheries or other existing trust uses or purposes. The buyout schedule is as follows: If the sublease is terminated before the end of Year 4 – 80% of costs, if before Year 5 – 75% of costs. At the end of the 5-year term best efforts will be made to negotiate a new 5-year sublease. If that is not possible, TIDA will reimburse 70% of costs associated with capital improvements and start up/installation costs. This is acceptable to all parties.

Ms. Rosen strongly suggests that staff look into a way to incorporate the childcare center into the Tidelands Trust discussions.

Sherry Williams, Director of TIHDI, discusses detailed plans for the childcare center.

Mr. Green asked what is TIHDI's role in ensuring this agency, Tri-Cities, maintains its license and subjects itself to what the license requires. Ms. Williams replies that TIHDI will have an MOU with Tri-Cities that outline what the State requires.

Jim Fagler, architect for Asian Neighborhood Design, states Asian Neighborhood Design is a TIHDI member. Mr. Fagler discussed in detail the existing building and the general renovations.

Mr. Elberling asks if there are any environmental cleanup issues with the property. Mr. Proud replies no.

Rose Juarez, Assistant Director of Program Quality, Tri-Cities Children's Centers, introduces herself. Tri-Cities is in the process of changing their name; they serve more communities than Newark, Fremont and Union City now. Most of the children they serve are homeless, children of teens, divorce, abuse, violence, and disabilities. The California Department of Education has commended them for serving diverse populations.

Michele Rutherford, Childcare Program Manager for DHS, states she has been working on this project for the past three years. Ms. Rutherford expressed her enthusiasm for the partnership between DHS and Tri-Cities. They have an excellent reputation in the State and are experienced in working with diverse families. She urges approval of the sublease so construction can begin.

Ms. Cheng moves approval of item 10. Rosen seconded. Approved 6-0.
Ms. Rosen moves approval of Item 11. Wong seconded. Approved 6-0.

14. Mr. Elberling asks to take Item 14 out of order. A Resolution authorizing the Executive Director to issue a focused Request for Proposal (RFP) to Treasure Island Community Development (TICD) and a Presentation of the Timeline Associated with the RFP.

Mr. Proud states item 14 is a continuation of the discussion item presented at the September 12, 2001 meeting. The issuance of the RFQ, the response, independent evaluation of the two responses, results are one was qualified. Information was compiled from the development community, and a report was prepared by BAE, which gave us three options. Staff recommended on Sept. 12, 2001 that the Board consider issuing a focused RFP to TICD. We are not suggesting that we enter into an ENA today. Discussion of the language in the title of the resolution, and is determined that the resolution be amended to replace "prepare" with the word "issue."
The proposed timeline includes; Prepare Draft RFP; Present Draft RFP to CAB; Comments on Draft RFP from Regulators/City Department Heads; Comments on Draft RFP from CAB; Revise and Present Draft RFP to TIDA Board; Present Final RFP to TIDA Board for Approval. Discussion of the timeline continues including discussion of holding upcoming workshops for early feedback of concepts.
Tim Molinari, CAB member, urged the Authority to move ahead with the RFP.
Sherry Williams, TIHDI, supports the recommendation of CAB to move forward.
Ruth Gravanis, Treasure Island Wetlands and the CAB, asks that the draft RFP is available electronically so the CAB can consider comments of various departments.
Ms. Rosen asks if this is a proposed schedule that can be revised for opportunity for public comment. Mr. Proud states the schedule can be revised.

Cheng moved approval. Fazande seconded. Approved 5-0

12. Resolution authorizing the extension of a use permit for an additional three months for use of Pier 1 with Power Engineering Contractors, Inc.

Ms. Conarroe reports that Power Engineering Contractors currently does work on the base of the towers of the Bay Bridge. They have asked to use a portion of Pier 1 to move their barge with the crane and their tugboats that are used to transport workers to the bridge. They had initially asks for a 6 month use permit, now they just need an additional 3 months to finish the job.

Fazande moves approval. Rosen seconded. Approved 4-0

13. Resolution Authorizing the Executive Director to execute a contract with San Francisco Community Recyclers for the deconstruction of Buildings 128,129,130 and 131 on Treasure Island.

Ms. Conarroe states that in July 2000 staff applied for a deconstruction grant. Approval from the State was granted to proceed and expend the funds. Attached for approval is a contract with SF Community Recycles, a TIHDI member organization to actually deconstruction the buildings.
Carrie Dipman, TIHDI and CAB member, discusses an historical review of the project. If the resolution is approved, SF Community Recyclers will be able to hire between 5-8 formerly homeless people through the job brokerage system.
Andy Pugny, Executive Director of SF Community Recyclers, states that the State Waste Management Board has awarded SF Community Recyclers with grants to hire and train up to 8 homeless people at Treasure Island to deconstruct buildings.
Kevin Drew, Dept. of the Environment, states that this project is a resource-generating, pre-development site clearance method.
Ruth Gravanis expresses her support for the program.
Mr. Elberling asks if the Navy cleanup process has been completed on this property. Ms. Conarroe states yes.

Mr. Green moved approval. Mr. Fazande seconded. Approved 4-0

15. Resolution approving the Cooperative Agreement with the United States Navy for the Period October 1, 2002 through September 30, 2002 for $145,000.

Mr. Proud states the Board has seen this on an annual basis. When the base closed in 1997, the Authority was granted a caretaker agreement and funding. It gives the Authority the right to assume the responsibility of taking care of the property. In the beginning, we received $4,000,000, then $2,000,000, last year we received $145,000 with no anticipation of receiving any further cooperative agreement funding. Staff argued that due to the Navy's inability to deliver the housing, to deliver the EIR on time, etc., and how that affected our financial viability they should continue to provide funding to the Authority. They agreed and we were entitled to another year of Cooperative Agreement funding. In addition, our budget did not reflect this revenue. These are encumbered funds that must be spent on things like road maintenance, DPW, Bldg. 1, etc. The cooperative agreement is subject to approval by the Board of Supervisors.

Mr. Green moved approval. Mr. Fazande seconded. Approved 4-0

16. Adjourn 11:28 AM

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AGENDA ITEM

Treasure Island Development Authority
City and County of San Francisco

Subject: Resolution authorizing a reduction in the dollar amount requested in a grant application to the California Technology Trade and Commerce Agency for a California Defense Adjustment Matching (CDAM) Grant.

Agenda Item No. 7

Contact Person/Phone: Marianne Conarroe
(415) 274-0660

Meeting Date: 11/14//2001

SUMMARY OF PROPOSED ACTION:
Staff seeks the authorization for a reduction in the dollar amount originally submitted in a grant application to the California Technology Trade and Commerce Agency.

At a regularly scheduled meeting on September 13, 2000, the Authority approved the submittal of a grant application for $135,000 (One Hundred Thirty Five Dollars) to the California Technology, Trade and Commerce Agency. The grant would be used to update existing seismic information, and to determine an optimal solution for reinforcement, and develop construction-ready specifications for the Causeway.

However, it was later discovered that the grant funds from California Technology, Trade and Commerce Agency were for $67,500 (Sixty Seven Thousand Five Hundred Dollars), provided that the Treasure Island Development Authority could supply an equal matching amount.

This resolution, at the urging of the staff at California Technology, Trade and Commerce Agency amends the original resolution adopted by the Authority on September 13, 2000 to state that the grant amount applied for is $67,500.

BACKGROUND:
The Reuse Plan and two separate geotechnical studies (one commissioned by the US Navy, the other by the City as part of the Reuse Plan process) document the damage from the 1989 Loma Prieta earthquake to the Causeway between Yerba Buena and Treasure Island. The Causeway is the lifeline between the two islands due to the fact that it houses the utility lines, and is the only vehicular and public transit access to Treasure Island. Without the reinforcement of the Causeway, redevelopment of the islands could be hindered significantly.

Two grant programs, California's Defense Adjustment Matching (CDAM) grant, and the U.S. Department of Commerce's Economic Development Administration's (EDA) grant provides funds for planning and the implementation of economic redevelopment of military bases that are closing or that have already shut down. The CDAM grant specifically provides for a 50% match for other funds. An application for Federal EDA funds was transmitted to the Department of Commerce on August 28, 2000, and was awarded to the Authority earlier this year.

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RESOLUTION AUTHORIZING A REDUCTION IN THE DOLLAR AMOUNT REQUESTED IN A GRANT APPLICATION TO THE CALIFORNIA TECHNOLOGY TRADE AND COMMERCE AGENCY FOR A CALIFORNIA DEFENSE ADJUSTMENT MATCHING (CDAM) GRANT.

WHEREAS, the Treasure Island Reuse Plan recognizes the need for seismic reinforcement of Treasure Island and selected structures on the Island to ensure the safety of residents, visitors and workers on Treasure Island; and

WHEREAS, repair and strengthening of the section of Treasure Island Road, also known as, "the Causeway," must occur before redevelopment of the island is completed; and

WHEREAS, the Causeway is the lifeline containing critical infrastructure including utility lines, and is the single roadway for vehicular access and public transit on and off Treasure Island;

WHEREAS, the Causeway sustained serious damage from the 1989 Loma Prieta earthquake; and

WHEREAS, on August 16, 2000 the California Technology of Trade and Commerce Agency, issued a solicitation for projects for Fiscal Year 2000/2001 that were eligible for a CDAM grant to assist communities seeking federal funding for defense-related economic adjustment strategies and projects; and

WHEREAS, on September 13, 2000, the Authority approved (Resolution Number 00-31-9/13), the submittal of a grant application for $135,000 (One Hundred Thirty Five Dollars) to the California Technology, Trade and Commerce Agency for monies to update existing seismic information, determine an optimal solution for reinforcement, and develop construction-ready specifications for the Causeway; and

WHEREAS, it was later discovered that the grant funding from California Technology Trade and Commerce Agency was actually for $67,500 (Sixty Seven Thousand Five Hundred Dollars) provided that the Authority could supply an equal matching amount not to exceed $67,500; and

WHEREAS, the Authority, at the urging of California Technology Trade and Commerce Agency, needs to amend the resolution from the September 13, 2000 meeting to reflect the change in the amount originally submitted in the grant application, and to reflect the Authority's matching amount of $67,500; and therefore be it

RESOLVED, the Authority approve of the amendment and authorize the Executive Director to enter into and sign any agreements related to the grant, and to provide the matching amount of $67,500; now therefore be it

FURTHER RESOLVED, that this resolution shall remain in full force and effect until a resolution of the Board of Directors of the Authority is adopted amending or rescinding this resolution.

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected and acting Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors at a properly noticed meeting on November 14, 2001.

_____

John Elberling, Secretary

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AGENDA ITEM
Treasure Island Development Authority
City and County of San Francisco

Subject: Resolution Approving the Second Amendment to The Exclusive Negotiating Agreement with Treasure Island Enterprises to Give the Executive Director the Authority to Extend the Term of the Agreement

Agenda Item No. 8
Meeting of November 14, 2001

Contact/Phone: Annemarie Conroy, Executive Director
Stephen Proud, Director of Development
274-0660

BACKGROUND

On January 21, 1998, the Authority issued a Request for Proposals ("RFP") related to the development and expansion of the Treasure Island Marina. Based on that RFP process, on February 17, 1999, the Authority authorized staff to prepare an exclusive negotiating agreement (ENA) with Treasure Island Enterprises (TIE), which was executed on June 9,1999. Pursuant to the terms of the ENA, TIE and Authority staff were directed to negotiate and create long-term agreements for the development and expansion of the Marina as contemplated by the RFP (the "Project").

To date the Authority and TIE have completed several milestones including an agreement with TIE for the interim operation of the existing marina, and the preparation of a preliminary development concept (PDC) for the marina expansion, and a term sheet (see Agenda Item #10). However, the ENA contemplated that the parties would also complete and execute transaction documents before the expiration of the ENA. While TIE and Authority staff have been working to complete these documents, the work underway will not be completed within the original time set forth in the ENA.

It is important to note that TIE requested the ENA extension in a timely manner and that they are not in default under the terms of the existing ENA or the interim operating agreement with TIDA. The need for the extension is due to various factors that remain beyond the control of TIE. They include:

- *Environmental Review Process.* As has been reported to the Authority Board in the past, the environmental review process (NEPA/CEQA) that would allow for the conveyance of property to the Authority, and subsequently to TIE for the marina expansion, has not been completed. Based on recent meetings with the Navy, the environmental review process is expected to be complete in Fall 2002. Thus, the Authority could not consider transaction documents for approval until that time.

- *Environmental Remediation.* The proposed boundaries for the marina contain several installation restoration (IR) sites that require investigation to determine the level of possible environmental contamination and the activities required to remediate those sites. This work is ongoing and the Authority has held several discussions with the Navy to establish a standard and schedule that allows for the expansion of the marina and resolution of these issues has a direct impact on the ability to finalize transaction documents. Moreover, until the sites receive regulatory clearance (or the Authority elects to take these parcels via an "early transfer"), they cannot be conveyed to the Authority or TIE.

- *Staff Resources.* Because of delays in the environmental review and remediation processes, staff has approached the preparation of transaction documents with less urgency than other, more time-sensitive tasks. Staff has, and will continue to work with TIE on the preparation of a transaction documents. However, staff has also been working to move other aspects of the redevelopment effort, such as the Economic Development Conveyance Memorandum of Agreement, the Environmental Impact Report (EIR), and Primary Developer RFP, forward at the same time. Thus, the delays in the Schedule of Performance should not be attributed to TIE.

Recommendation:

Based on the factors outlined above, staff is recommending Authority approval for an amendment to the ENA that allows the Executive Director to extend the term for an additional 18 months.

FILE NO. _____ RESOLUTION NO. _____

[Amendment to Marina Exclusive Negotiating Agreement]

APPROVING THE SECOND AMENDMENT TO EXCLUSIVE NEGOTIATING AGREEMENT WITH TREASURE ISLAND ENTERPRISES TO GIVE THE EXECUTIVE DIRECTOR THE AUTHORITY TO EXTEND THE TERM OF THE AGREEMENT.

WHEREAS, Under the Treasure Island Conversion Act of 1997, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California Legislature (i) designated the Authority as a redevelopment agency under California redevelopment law with authority over former Naval Station Treasure Island (the "Base"), and (ii), with respect to those portions of the Base which are subject to the public trust for commerce, navigation and fisheries (the "Tidelands Trust"), vested in the Authority the authority to administer the Tidelands Trust as to such property; and,

WHEREAS, The Tidelands Trust prohibits the sale of Tidelands Trust property into private ownership, generally requires that Tidelands Trust property be accessible to the public and encourages public oriented uses of trust property that, among other things, attract people to the waterfront, promote public recreation, protect habitat and preserve open space; and,

WHEREAS, The Board of Supervisors approved the designation of the Authority as a redevelopment agency with powers over Treasure Island in Resolution No. 43-98, dated February 6, 1998; and

WHEREAS, Under the Act and the Authority's Articles of Incorporation and Bylaws, the Authority, acting by and through its Board of Directors has the power, subject to applicable laws, to sell, lease, exchange, transfer, convey or otherwise grant an interest in or right to use or occupy all or any portion of the real property located on the Base; and,

WHEREAS, At its regular meeting on February 10, 1999, the Board of Directors of the Authority adopted Resolution No. 99-09-2/10 authorizing the Executive Director of the

Authority to enter into exclusive negotiations with Treasure Island Enterprises ("TIE") for the development of the Treasure Island Marina; and

WHEREAS, Pursuant to Resolution No. 99-20-6/9, on June 22, 1999, the Executive Director of the Authority entered into a 12-month Exclusive Negotiating Agreement with TIE with one 6-month extension option (the "Extension Option") for the redevelopment of the Treasure Island Marina; and,

WHEREAS, The initial 12-month term expired and TIE duly exercised its Extension Option; and,

WHERAS, on December 13, 2000 the Authority authorized the Executive Director to extend the term of the ENA for 12 months to December 22, 2001 (Resolution No. 00-43-12/21); and

WHEREAS, The ENA will expire on December 22, 2001, and the parties have been unable to complete negotiations for a number of reasons beyond TIE's control, all of which are explained in detail in the staff report recommending this resolution on file with the Clerk of the Authority; now therefore, be it

RESOLVED,That the Board of Directors hereby authorizes the Executive Director to execute an amendment to the Exclusive Negotiating Agreement for the extension of the term of the Extension Option to May 22, 2003, with such amendment to be in substantially the form attached hereto as Exhibit A; and be it

FURTHER RESOLVED, That the remaining provisions set forth in the Exclusive Negotiating Agreement shall remain in full force and effect, including without limitation, Section 4(b) thereof which allows the Authority to grant an additional 6 month extension if the parties are unable to execute the transaction documents due to circumstances beyond the control of TIE.

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected and acting Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on November 14, 2001.

_____
John Elberling

SECOND AMENDMENT TO

EXCLUSIVE NEGOTIATING AGREEMENT

THIS SECOND AMENDMENT TO EXCLUSIVE NEGOTIATING AGREEMENT (the "Second Amendment") is made and entered into this ____ day of _____, 2001, by and between the TREASURE ISLAND DEVELOPMENT AUTHORITY ("Authority"), a public body, corporate and politic created pursuant to the laws of the State of California, and TREASURE ISLAND ENTERPRISES, a California limited liability corporation ("Developer"). (Collectively, the Authority and the Developer shall be referred to as the "Parties").

RECITALS

WHEREAS, the Authority and the Developer are parties to that certain Exclusive Negotiating Agreement dated June 22, 1999 (the "Agreement") pursuant to which the Parties agreed, among other things, to negotiate in good faith with each other to enter into (i) a Disposition and Development Agreement ("DDA") and any related Ground Leases related to the development and expansion of the Treasure Island Marina ("Marina"), (ii) a Sublease for the interim operation of the Marina, and (iii) any other necessary transaction documents (collectively, the "Transaction Documents"); and,

WHEREAS, the initial term of the Agreement was for one year with one six-month extention option (the "Extension Option"), and the Developer duly exercised its Extension Option in accordance with the Agreement to extend the term for an additional six (6) months; and,

WHEREAS, the Parties entered into the First Amendment to the Exclusive Negotiating Agreement to further extend the term of the Agreement for another twelve (12) months and to modify the Developer's Schedule of Performance, attached to the Agreement as Exhibit B thereto, to extend the performance deadlines for certain activities thereunder.

WHEREAS, the Parties wish to further extend the term of the Agreement for another eighteen (18) months.

NOW THEREFORE, the Authority and the Developer agree as follows:

1. Subsection 4(a) of the Agreement is hereby amended to read as follows:

"(a) The Developer shall have one six (6) month option to extend the Exclusive Negotiation Period (the "Extension Option"), subject to the consent thereto by the Executive Director of the Authority as further provided below. The Developer shall exercise the Extension Option by written notice to the Authority on or before thirty days prior to the termination date of this Agreement, together with cash or a cashier's check in the amount of Ten Thousand Dollars ($10,000.00) (the "Extension Option Deposit"). The Extension Option Deposit shall be held by the Authority and added to the RFP Deposit if the Executive Director consents to the extension; provided, however, the Authority shall credit the Extension Option Deposit (without interest) towards the first of any lease payments required of the Developer under the Ground Lease if the parties successfully enter into the Transaction Documents. The Executive Director of the

Authority shall consent to the Developer's exercise of the Extension Option if (i) the Developer has paid the Extension Option Deposit in the manner specified above and deposited the additional $25,000.00 as required under Section 3.2(b)(I) above, (ii) the Developer is not in default under this Agreement and no event shall have occurred which, with the giving of notice or the passage of time, or both, would constitute such a default, and (iii) the Developer and the Executive Director have reached substantial agreement on the material terms and conditions of the Transaction Documents, which the Executive Director is prepared to recommend to the Authority's Board of Directors for approval. If the Developer has duly exercised the Developer's Extension Option pursuant to this subsection 4(a), the Executive Director may, in her sole and absolute discretion, extend the period of such Extension Option for up to an additional thirty (30) months by written notice to the Developer, provided that (x) the Developer is not in default under this Agreement and no event shall have occurred which, with the giving of notice or the passage of time, or both, would constitute such a default, and (y) the Executive Director determines that the inability to complete the Transaction Documents within the initial term as extended by the Extension Option was beyond the Developer's control. Except as otherwise provided in Section 4(b) below, no further extensions beyond the Extension Option described in this Section are permitted under this Agreement."

2. The last paragraph in subsection 4(b) of the Agreement is hereby amended to read as follow:

"The foregoing notwithstanding, nothing in this subsection 4(b) shall require the Authority to extend the term of the Exclusive Rights by more than six (6) months, beyond any date of termination arising without regard to this subsection 4(b), and, thus, in no event shall the term of the Exclusive Negotiation continue for more than four (4) years and six (6) months from the date of this Agreement (the "Upset Date")."

3. Except as otherwise expressly amended by this Second Amendment, all other terms and conditions of the Agreement, as modified by the First Amendment, shall remain in full force and effect.

IN WITNESS WHEREOF, the Authority and the Developer have duly executed and delivered this Agreement as of the date first written above.

AUTHORITY:
TREASURE ISLAND DEVELOPMENT AUTHORITY, a non-profit, public benefit corporation

By: _____
Its: _____

DEVELOPER:
TREASURE ISLAND ENTERPRISES, a California limited liabilty company

By OA3, LLC,
a California limited liability corporation,
Its Managing Member

By _____
Ronald W. Burkle
Its: Managing Member

APPROVED AS TO FORM:

Louise H. Renne,
City Attorney

By _____
Donnell W. Choy
Deputy City Attorney

Notes

AGENDA ITEM
Treasure Island Development Authority
City and County of San Francisco

Subject: Resolution Approving First Amendment To Interim Sublease with Treasure Island Enterprises to Modify Provisions Related to Repair of the Facilities, Improvement Allowance, and Books and Records.

Agenda Item No. 9
Meeting of November 14, 2001

Contact/Phone: Annemarie Conroy, Executive Director
Stephen Proud, Director of Development
274-0660

SUMMARY OF PROPOSED ACTION

Staff is requesting approval of an amendment to the Interim Sublease with Treasure Island Enterprises to modify provisions regarding (i) repair and maintenance work and temporary improvements and facilities; (ii) improvement allowance; and (iii) books, records, and reports.

BACKGROUND

On January 21, 1998, the Authority issued a Request for Proposals ("RFP") related to the development and expansion of the Treasure Island Marina. Based on that RFP process, on February 10, 1999, the Authority authorized staff to prepare an exclusive negotiating agreement (ENA) with Treasure Island Enterprises (TIE), which was executed on June 9,1999. Pursuant to the terms of the ENA, TIE and Authority staff were directed to complete several milestones associated with the development and expansion of the Marina as contemplated by the RFP. One such milestone was the negotiation and approval of an Interim Operating Agreement for the existing marina.

On September 2, 1998, the Authority and TIE entered into a sublease for the marina under which TIE would assume responsibility for all management functions of the marina, including, without limitation, the performance of all property management, marketing, leasing, protection, maintenance and repairs. At the time the lease was executed, it was the expectation of Authority staff that under the terms of the ENA transaction documents would be prepared and executed and the construction/expansion of the new marina would be underway within two years. However, due to delays in the property conveyance process with the U.S. Navy, the transaction documents contemplated under the ENA are not complete and as a result, construction has been delayed.

To provide for the continued operation of the existing marina by TIE, Staff is proposing the sublease be amended in following manner (a copy of the sublease amendment is attached to the resolution as Exhibit A):

- *Term*: The term of the Agreement is the expiration of the ENA or the execution of the transaction documents related to the long term development of

the marina, whichever occurs first. If the extension of the ENA is approved (Agenda Item #8), the sublease will automatically be extended for the same term.

- *Improvement Allowance*: The Authority originally granted TIE an Improvement Allowance of $190,000. This Improvement Allowance allowed TIE to repair the marina to address code and safety deficiencies and to address deferred maintenance of the facility. The proposed sublease amendment increases this Improvement Allowance to $368,200. This increase will allow TIE to make additional repairs to the facility to address deficiencies in the plumbing and electrical systems, ADA upgrades, and refurbishment of the B-Dock extension (currently 10 slips are unusable). The Agreement allows TIE to amortize the cost of the repairs over the extended term of the Agreement in the form of a rent credit against Base Rent.

- *Books and Records*: The proposed amendment to the sublease makes two changes to this provision. TIE is no longer required to provide a listing of berth holders on a quarterly basis, showing new arrivals and departures, nor are the required to provide an annual report to the Authority. Under the provision of the sublease, TIE is required to submit quarterly reports to determine percentage rent payable, and the Authority retains the right to audit the books and records of TIE.

RECOMMENDATION

Staff recommends approval of the proposed amendment to the sublease.

[First Amendment to Marina Interim Sublease]

APPROVING THE FIRST AMENDMENT TO THE INTERIM SUBLEASE WITH TREASURE ISLAND ENTERPRISES TO MODIFY PROVISIONS REGARDING (i) REPAIR AND MAINTENANCE WORK AND TEMPORARY IMPROVEMENTS AND FACILITIES, (ii) IMPROVEMENT ALLOWANCE, AND (iii) BOOKS, RECORDS, AND REPORTS.

WHEREAS, Under the Treasure Island Conversion Act of 1997, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California Legislature (i) designated the Authority as a redevelopment agency under California redevelopment law with authority over former Naval Station Treasure Island (the "Base"), and (ii), with respect to those portions of the Base which are subject to the public trust for commerce, navigation and fisheries (the "Tidelands Trust"), vested in the Authority the authority to administer the Tidelands Trust as to such property; and,

WHEREAS, The Tidelands Trust prohibits the sale of Tidelands Trust property into private ownership, generally requires that Tidelands Trust property be accessible to the public and encourages public oriented uses of trust property that, among other things, attract people to the waterfront, promote public recreation, protect habitat and preserve open space; and,

WHEREAS, The Board of Supervisors approved the designation of the Authority as a redevelopment agency with powers over Treasure Island in Resolution No. 43-98, dated February 6, 1998; and

WHEREAS, Under the Act and the Authority's Articles of Incorporation and Bylaws, the Authority, acting by and through its Board of Directors has the power, subject to applicable laws, to sell, lease, exchange, transfer, convey or otherwise grant an interest in or right to use or occupy all or any portion of the real property located on the Base; and,

WHEREAS, on September 2, 1998, the Authority and TIE entered into a two-year sublease for the interim operation by TIE of the existing marina, including, without limitation, the performance of all property management, marketing, leasing, protection, maintenance and repair responsibilities of the Authority required under its Master Lease with the United States Government, acting by and through the United States Navy (the "Navy"); and

WHEREAS, TIE and the Authority staff have agreed upon the scope of additional repair and maintenance work and temporary improvements and facilities to the existing Marina and wish to amend the Interim Sublease to provide for such additional work as well as an additional improvement allowance to TIE for the performance of such work and to clarify certain provisions in the Interim Sublease regarding books, records, and reports; now therefore, be it

RESOLVED,That the Board of Directors hereby approves the First Amendment to the Interim Sublease between the Authority and TIE and authorizes the Executive Director to execute the First Amendment to the Interim Sublease in substantially the form attached hereto as Exhibit A.

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected and acting Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on November 14, 2001.

_____

John Elberling

FIRST AMENDMENT TO
INTERIM SUBLEASE

between

THE TREASURE ISLAND DEVELOPMENT AUTHORITY

as Sublandlord

and

TREASURE ISLAND ENTERPRISES
as Subtenant

For the Interim Sublease of

The Treasure Island Marina at former Naval Station Treasure Island
San Francisco, California

November, 2001

FIRST AMENDMENT TO
TREASURE ISLAND SUBLEASE

THIS FIRST AMENDMENT TO SUBLEASE (the "Amendment"), dated as of November _____, 2001, is by and between the Treasure Island Development Authority ("Sublandlord") and Treasure Island Enterprises, LLC, a California limited liability company ("Subtenant"). From time to time, Sublandlord and Subtenant together shall be referred to herein as the "Parties".

This Amendment is made with reference to the following facts and circumstances:

A. Sublandlord and Subtenant are parties to the Interim Sublease of the Treasure Island Marina at former Naval Station Treasure Island in San Francisco, California, dated September 1, 1999 (the "Sublease"). All capitalized terms used in this Amendment that are not otherwise defined herein shall have the meaning given to it in the Sublease.

B. Sublandlord and Subtenant desire to amend certain terms of the Sublease on the terms and conditions contained in this Amendment. Nothing herein is intended to modify or set a precedent for the terms and conditions of the long-term lease contemplated by the ENA.

NOW THEREFORE, Sublandlord and Subtenant hereby agree to amend the Sublease as follows:

2. Paragraph 4.2 is hereby amended to read as follows:

"4.2 **Improvement Allowance**. Subtenant shall be entitled to offset against its obligation to pay Base Rent an amount equal to Subtenant's actual costs of constructing the Approved Work (as defined in Section 7.1 below), provided however in no event shall the amount of such offset exceed [$368,200] (the "Improvement Allowance"). The verified amount of the Improvement Allowance shall be amortized over 48 months so that the amount of the offset against Base Rent for any given month shall not exceed $8,000. Regardless of whether or not the Term of this Sublease is of sufficient length for Subtenant to fully off-set the Improvement Allowance against Base Rent, in no event shall Sublandlord be obligated to reimburse Subtenant for such Improvement Allowance (other than as an off-set against Base Rent) or extend the Term of this Sublease, and Subtenant shall solely bear the risk thereof."

2. Paragraph 4.6(a) of the Sublease is hereby amended to read as follows:

(a) **Books and Records**. Subtenant shall establish and maintain complete and accurate accounting records (the "Books and Records") reflecting business operations of Subtenant transacted under this Sublease, including all revenues and operating costs for three (3) years after the TIE Fiscal Year to which such records relate. TIE shall also maintain complete and accurate accounting records for all construction costs associated

with the Approved Work for a period of three (3) years following completion of the Approved Work. Subtenant shall maintain such Books and Records at a reasonably accessible location within California.

3. Paragraph 4.6(b) of the Sublease is hereby amended to read as follows:

"(b) **Regular Reports**. Except for the first partial quarter ending on September 30, 1999, promptly after the close of each calendar quarter but no later than 30 days after such date, Subtenant shall deliver to the Sublandlord a quarterly report on a form acceptable to the Sublandlord. Such report shall be certified as true and correct in all material respects by Subtenant and shall include: (i) a statement of the Base Rent (separating out Percentage Rent and Minimum Rent), (ii) a statement of Gross Revenues for the preceding quarter, specifically and separately identifying the sources of such revenue by rent classification, if any, and (iii) such other information as the Sublandlord may reasonably require.

4. Paragraph 4.6(c) of the Sublease is deleted.

5. Paragraph 7.1 of the Sublease is hereby amended to read as follows:

"7.1 **Approved Work**. Sublandlord hereby approves the plans and descriptions attached hereto as Exhibit E and Exhibit E-1, for the conduct of deferred repairs and maintenance work and installation of certain permanent or temporary improvements and/or portable facilities on the Premises (such work is referred to as the "Approved Work" and such plans, specifications and descriptions are referred to as the "Plans"). Subtenant shall be responsible for completing the Approved Work in accordance with the procedures for constructing Alterations contained in Section 7.2 below, as applicable. Subject to events of Force Majuere (as defined below) Subtenant's failure to complete the Approved Work by [June 30, 2002] shall constitute an Event of Default under this Sublease. Subtenant shall further be responsible for obtaining all permits and licenses required in connection with the Approved Work. Subtenant shall not make any material change to the plans and descriptions of the Approved Work without first obtaining Sublandlord's written approval."

4. Except as expressly amended herein, the terms and conditions of the Sublease shall remain in full force and effect.

Sublandlord and Subtenant have executed this Amendment in duplicate as of the date first written above.

SUBTENANT:
TREASURE ISLAND ENTERPRISES,
a California Limited Liability Company

By OAC3, a California limited liability company

By: _____

Its: _____

SUBLANDLORD:
THE TREASURE ISLAND DEVELOPMENT AUTHORITY

By: _____
Its: Executive Director

Approved as to Form:

_____
Deputy City Attorney

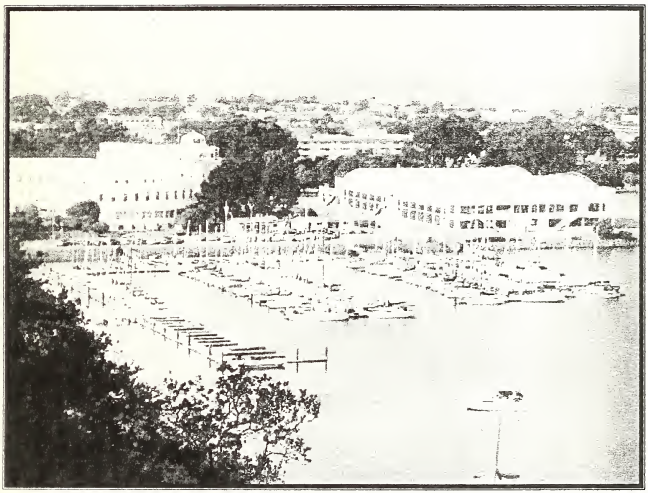
Approved:

_____
Base Conversion Manager
U.S. Navy
Engineering Field Activities West

EXHIBIT E-1 - APPROVED WORK

TREASURE ISLE MARINA
REPAIR PROGRAM

October 2001



Prepared by:

CONCEPT MARINE ASSOCIATES, INC.

For:

TREASURE ISLAND ENTERPRISES

COST ESTIMATE

The following is an order-of-magnitude cost estimate based on the condition survey prepared by Concept Marine in June 2001. Descriptions of work and costs identified herein include both labor and material costs to make the respective repairs.

DESCRIPTION	ESTIMATED COSTS
Permits	$4,800
• Building permits	
• U.S. Army Corps of Engineers	
General Repairs to Docks	$25,000
• Re-nail decking	
• Replace deteriorated decking	
• Add and adjust floatation	
• Replace missing pile hoops	
Ramp Repairs	$4,200
• Replace failed elevation transitions	
• Re-coat decks with non-skid	
• Repair damaged cleats	
• Repair axles, wheels & wear plates	
• Repair loose or unstable handrails	
Plumbing Repairs	$7,200
• Add isolating valves to walkway mains	
• Install hose bibs on Dock A	
Electrical Repairs	$26,800
• Repair primary deck-mounted light standards	
• Secure primary service panels	
• Install electric meters	
Additional ADA Ramp	$29,000
• Engineering of support structure	
• Supply and installation	
ADA Correction Notice Items (including intercom)	$4,000
Refurbish B-Dock Extension	$43,000
• Remove/dispose of existing fingers	
• Reconstruct walers and framing	
• Secure floatation billets	
• Install cleats, repair/replace decking	
• Install treated wood piling	
Management of Construction	$18,000
Subtotal:	$162,000
Contingency (10%):	$ 16,200
TOTAL:	**$178,200**

DOCKS

Responsibility: Concept Marine Associates

Contract Form: Time & Material
with not-to-exceed limitation

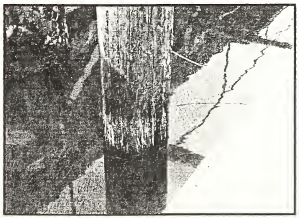
Permit Requirements: None anticipated

Description:

The work performed within this section will address dock repairs associated with general dock maintenance and public safety.

Work will include:

- Adjust floatation
- Replacement of broken or dry rotted lumber
- Re-nail loose decking
- Replace missing pile hoops.



RAMPS

Responsibility: Concept Marine Associates

Contract Form: Time & Material
with not-to-exceed limitation

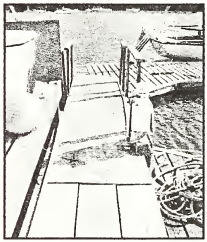
Permit Requirements: None anticipated

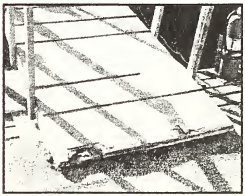
Description:

The work to be performed within this section consists of either rebuilding or, if necessary, replacing the small intermediate ramp used to access various portions of the dock system.

Work will include:

- Re-coat decks with non-skid surfacing
- Ensure roller function
- Repair damaged cleats
- Repair loose handrails
- Repair uneven transitions between ramp components





UTILITIES

Responsibility: Concept Marine Associates

Contract Form: Time & Material
with not-to-exceed limitation

Permit Requirements: May be required

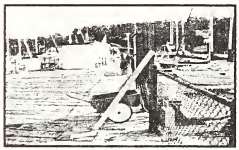
Description:

The work performed under this section will be to evaluate and repair electrical and plumbing components for safe and functional operation.

Work will include:

- Secure main electrical panel
- Repair deck-mounted light standards
- Install electric meters on slip power centers
- Install isolating valves to walkway main supply lines
- Confirm hose bibb – Dock A

All new materials and electrical components will be suitable for marine application and meet current code requirements. Electrical work shall be performed by a licensed electrician.



ADA ACCESS

Responsibility: Concept Marine Associates

Contract Form: Time & Material
with not-to-exceed limitation

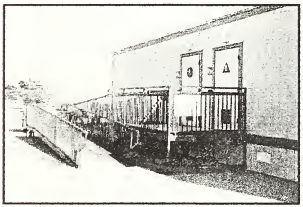
Permit Requirements: None anticipated

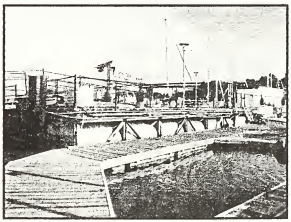
Description:

The work to be performed under this section is to ensure ADA accessibility within the facility.

Work will include:

- Correct items as identified in the City's review notice
- Provide and install new ADA access ramp between barge deck and Dock A





B-DOCK EXTENSION

Responsibility: Concept Marine Associates

Contract Form: Time & Material
with not-to-exceed limitation

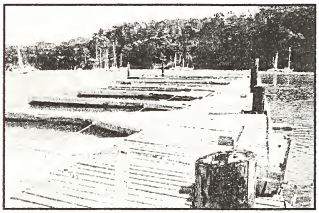
Permit Requirements: May be required

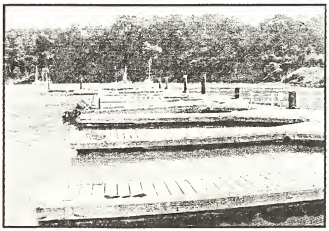
Description:

The work to be performed under this section will be the refurbishment of the B-Dock extension.

Work will include:

- Remove and dispose of damaged or unusable fingers and dock materials
- Rebuild existing main walkway section, including floatation adjustments
- Drive new treated timber pile to secure walkway section





Notes

AGENDA ITEM
Treasure Island Development Authority
City and County of San Francisco

Subject: Resolution Approving the Term Sheet For the Disposition and Development Agreement and Ground Lease Between the Treasure Island Development Authority and Treasure Island Enterprises for the Redevelopment of The Treasure Island Marina at Clipper Cove

Agenda Item No. 10
Meeting of November 14, 2001

Contact/Phone: Annemarie Conroy, Executive Director
Stephen Proud, Director of Development
274-0660

I. BACKGROUND

The Authority issued a Request for Proposals ("RFP") related to the development and expansion of the Treasure Island Marina on January 21, 1998. Based on that RFP process, on February 10, 1999, the Authority authorized staff to prepare an exclusive negotiating agreement (ENA) with Treasure Island Enterprises (TIE), which was executed on June 9,1999. Pursuant to the terms of the ENA, TIE and Authority staff were directed to negotiate and create long-term agreements for the redevelopment and expansion of the Marina as contemplated by the RFP.

On November 10, 1999, the Authority Board endorsed a Preliminary Development Concept (PDC) describing the physical aspects of the new marina. In addition, in response to the provisions set forth in the ENA, TIE and Authority staff prepared a draft Term Sheet describing the basic business terms of the project for the Authority's consideration. The Term Sheet (a copy is attached to the resolution as Exhibit A) will serve as the basis for the Development and Disposition Agreement (DDA) and the Ground Lease for redevelopment of the Marina. The following is a brief summary of the major provisions of the Term Sheet.

II. PROJECT DESCRIPTION

The scope of the project conforms to the PDC previously endorsed by the Authority. Development of the marina is expected to occur in two phases. The first phase (Phase I) includes development of all improvements located in the water including slips, public pier, and floating breakwater. In addition, Phase I includes temporary improvements on a linear strip of land immediately adjacent to Clipper Cove and the water area (as shown on Exhibit B-1 to the term sheet). Dredging will occur in the cove to provide better access into and out of the Cove and to provide additional depth under portions of the marina. Parking during Phase I will be accommodated within existing paved areas.

The second phase (Phase II) of the development, which for practical reasons cannot be constructed until improvements associated with the Master Developers have been implemented, will include the construction of two buildings (A&B) totaling approximately 20,000 square feet, permanent walkway and landscaping improvements, permanent parking facilities (which will be coordinated with Island-wide planning efforts), and a dry-stack storage facility.

The total area proposed for development lies to the south of Buildings 1, 2, and 3, which are historic structures which must be preserved, and borders the end of Building 180. Buildings 2 and 3 are used for television and film production and the Authority currently uses Building 180 as a venue for special events.

Virtually the entire land side portion of the proposed site is currently paved and used for parking, storage, and limited "back lot" activities for the studios. There are several small structures scattered throughout the paved areas and existing fencing limits access to the water and impedes travel from one end of the waterfront to the other.

Although the PDC endorsed by the Board was fairly detailed, under the term sheet, TIE will be required to make further refinements to the PDC and present a Final Development Concept to the Authority Board for its consideration. This Final Development Concept will be the result of two workshops, one with the Authority Board and a second public workshop on Treasure Island that includes the Treasure Island/Yerba Buena Island Citizen's Advisory Board. Once the Final development Concept is approved by the Authority Board, it will be attached to the DDA and will comprise the "Scope of Development" thereunder.

III. TRANSACTION DOCUMENTS

As noted earlier, the Term Sheet provides the basis for preparing the DDA and the Ground lease for the Marina. It is important to note that the DDA and Groundlease cannot be executed unless certain conditions have been met. These include:

- Completion of the Environmental Review Process (EIS/EIR);
- Adoption of a Redevelopment Plan and Specific Plan for the Base;
- Conveyance of the property from the Navy;
- Approval of the DDA and Ground Lease by the Authority Board, Board of Supervisors and the Mayor; and
- Any other necessary government approvals have been obtained.

The following briefly describes the major provision set forth in the Term Sheet for the DDA and the Ground Lease.

Disposition and Development Agreement. Among other things, the DDA deals with things such as site assembly and delivery, the Scope of the Development, the schedule of performance, and the financing plan for the construction of the new marina and any necessary infrastructure. In general, the Phase I premises will be delivered to TIE under a ground lease and Phase II will

be delivered to TIE via an amendment to the ground lease, when the conditions for delivery are satisfied.

Upon execution of the DDA, the Authority will open an escrow account for the disposition of the Phase I premises. To take delivery of the Phase I premises, TIE must satisfy the following conditions:

1. A final approved Job Broker Agreement with TIHDI;
2. A final approved management agreement between TIE and Almar;
3. Approved construction documents for the Phase I improvements;
4. Payment of up-front Holding Rent of $100,000;
5. Receipt of any necessary permits or approvals from any City or government agency with jurisdiction over the project;
6. Evidence of financing commitments and construction contracts;
7. Evidence of insurance coverage as set forth in the DDA; and
8. Delivery of a performance guarantee.

Delivery of the Phase II premises is conditioned upon the Master Developer's completion of large-scale infrastructure improvements required for reuse of the premises (e.g., seismic improvements, public street upgrades, utility system repairs/installation, etc.). Once these improvements have been completed, the Authority will open an escrow for disposition of the Phase II premises. Similar to the Phase I escrow, TIE must satisfy the following conditions:

1. Approval of an amended Job Broker Agreement with TIHDI;
2. Approval of a management agreement with the operator of any landside operations, such as a restaurant;
3. Payment of any applicable infrastructure advance;
4. Evidence of completion of the Phase I improvements;
5. Approved construction documents for the Phase II improvements;
6. Receipt of any necessary permits or other regulatory approvals from any City or government agency with jurisdiction over the project; and
7. Evidence of financing commitments and construction contracts.

The Term Sheet sets forth the following time schedule for construction of the Marina:

- Close First Escrow for Phase I premises within 12 months;
- Complete construction of Phase I improvements within 18 months of First Escrow Closing;
- Close Second Escrow for Phase II premises within 12 months of completion of core infrastructure by Master Developer;

- Complete construction of Phase II improvements within 12 months of the Second Escrow Closing.

Ground Lease. As noted earlier, the DDA focuses on construction and the lease on long-term operations. Upon expiration of the DDA, the lease will govern all of the rights and obligations of the parties with respect to the marina. The following summarizes the principal terms of the lease, which are based on TIE's response to the RFP.

- ***Term***. The term of the lease is 25 with options to renew for an additional 40 years.
- ***Rent***. Upon the close of the first escrow and until the Phase I improvements are complete, TIE will pay the Authority minimum rent in the amount of $100,000 per year. Once the improvements are complete, the Authority will receive the greater of Base Rent, set at $100,000 per year and periodically adjusted by CPI, or Percentage Rent, as set forth in Exhibit D of the Term Sheet.
- ***Rent Credit***. As set forth in the ENA, TIE will receive a rent credit for the RFP Deposit, the Transaction Cost Deposit, and the Extension Deposit received by the Authority. In addition, the Authority will grant TIE a rent credit for the costs associated with dredging and 50% of the costs associated with the construction of permanent walkway and landscape finishes that benfit the Island as a whole.
- ***Participation in Future Sales and Refinancing***. The Authority will participate in the net of revenues any refinancing, sale, or sublease of the new marina. The Authority's participation will be limited to: (i) available proceeds once TIE has realized its Capital Investment and a 10% return on said investment, and (ii) the rents credits received by TIE plus 7% interest compounded annually.
- ***Security Deposit***. The security deposit is two times the base rent, approximately $200,000 during the first year. The deposit shall be adjusted to match changes in base rent over time.
- ***Management***. TIE is sole responsible for the maintenance, repair and operation of the facility, and TIE must operate the marina at standard comparable to other marinas charging comparable rates. TIE is responsible for all costs associated with operating the marina, including any possessory interest or other applicable taxes. TIE will also develop a workforce-hiring plan consistent with the TIHDI agreement.
- ***Community Outreach***. TIE will develop a community outreach program to include other tenants on the Island, such as the Delancy Street Life Learning Academy and the Treasure Island Elementary School. In addition, TIE will make a good faith effort to work with the San Francisco Sailing Center on Treasure Island to incorporate that program into the new marina.
- ***Special Provisions***. TIE must comply with all special provisions applicable to the project, including Equal Opportunity Requirements, applicable City Ordinances, and Prevailing Wage Provisions.

IV. RECOMMENDATION

Staff recommends approval of the Term Sheet. If approved, staff would begin to prepare the DDA and Ground Lease and each of the items would be brought before the Authority Board for final approval.

[Marina Term Sheet]

APPROVING THE TERM SHEET FOR THE DISPOSITION AND DEVELOPMENT AGREEMENT AND GROUNDLEASE BETWEEN THE TREASURE ISLAND DEVELOPMENT AUTHORITY AND TREASURE ISLAND ENTERPRISES FOR THE REDEVELOPMENT OF THE TREASURE ISLAND MARINA IN CLIPPER COVE.

WHEREAS, Under the Treasure Island Conversion Act of 1997, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California Legislature (i) designated the Authority as a redevelopment agency under California redevelopment law with authority over former Naval Station Treasure Island (the "Base"), and (ii), with respect to those portions of the Base which are subject to the public trust for commerce, navigation and fisheries (the "Tidelands Trust"), vested in the Authority the authority to administer the Tidelands Trust as to such property; and,

WHEREAS, The Tidelands Trust prohibits the sale of Tidelands Trust property into private ownership, generally requires that Tidelands Trust property be accessible to the public and encourages public oriented uses of trust property that, among other things, attract people to the waterfront, promote public recreation, protect habitat and preserve open space; and,

WHEREAS, The Board of Supervisors approved the designation of the Authority as a redevelopment agency with powers over Treasure Island in Resolution No. 43-98, dated February 6, 1998; and

WHEREAS, Under the Act and the Authority's Articles of Incorporation and Bylaws, the Authority, acting by and through its Board of Directors has the power, subject to applicable laws, to sell, lease, exchange, transfer, convey or otherwise grant an interest in or right to use or occupy all or any portion of the real property located on the Base; and,

WHEREAS, On February 10, 1999, the Board of Directors of the Authority authorized the Executive Director of the Authority to enter into exclusive negotiations with Treasure Island Enterprises ("TIE") for the development of the Treasure Island Marina; and

WHEREAS, On June 22, 1999, the Executive Director of the Authority entered into a 12-month Exclusive Negotiating Agreement with TIE with one 6-month extension option (the "Extension Option") for the redevelopment of the Treasure Island Marina; and,

WHEREAS, The initial 12-month term expired and TIE duly exercised its Extension Option, and the Extension Option has been extended for up to an additional 30 months; and,

WHEREAS, The Authority staff and TIE have agreed upon a detailed Term Sheet as the basis for a Disposition and Development Agreement and Groundlease for the future redevelopment and development of a new Marina in Clipper Cove; now therefore, be it

RESOLVED,That the Board of Directors hereby approves the Term Sheet for the Redevelopment, Expansion And Operation Of The Treasure Island Marina and authorizes the Executive Director to execute such Term Sheet in substantially the form attached hereto as Exhibit A.

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CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected and acting Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on November 14, 2001.

_____

John Elberling

TERM SHEET
FOR THE REDEVELOPMENT, EXPANSION AND OPERATION OF THE TREASURE ISLAND MARINA

This Term Sheet, dated as of _____, 200_, summarizes certain basic terms of a proposed lease disposition and development agreement ("DDA") and long-term ground lease ("Lease") by and between the Treasure Island Development Authority, a non-profit public benefit corporation (the "Authority"), and Treasure Island Enterprises, LLC, a California limited liability company ("TIE") for the redevelopment, expansion and operation of the Treasure Island Marina and certain related land-side amenities (the "Project") on those portions of former Naval Station Treasure Island defined as the "Premises" below

I. BACKGROUND

On May 2, 1997, the Board of Supervisors of the City and County of San Francisco (the "City") authorized the Mayor's Treasure Island Project Office to establish the Treasure Island Development Authority. The Authority was established for the purpose of overseeing and implementing the redevelopment, reconstruction, rehabilitation, reuse, and conversion of the Naval Station Treasure Island (the "Base") for the public interest, convenience, welfare, and common benefit of the inhabitants of the City.

Under the Treasure Island Conversion Act of 1997 (AB 699), the California legislature: (i) designated the Authority as a redevelopment agency for all purposes under the Community Redevelopment Law (Sections 33000 et seq. of the Health and Safety Code) with authority over the Base; (ii) granted the Authority the right to administer the public trust for commerce, navigation, and fisheries (the "Tidelands Trust") as to those areas of the Base which are former tide or submerged lands and, therefore, subject to the Tidelands Trust; and (iii) provided the Authority with the ability to acquire, sell, lease, exchange, transfer, convey, or otherwise grant interests in or rights to use or occupy all or any portion of the real property located on the Base.

On January 21, 1998, the Authority issued a Request for Proposals ("RFP") to evaluate proposals related to the redevelopment and expansion of the Treasure Island Marina. TIE was one of three finalists who submitted proposals in response to the RFP. After considering the recommendations of a selection committee appointed by the Authority and considering the results of an independent analysis of certain components of the RFP selection criteria by the Sedway Group, the Authority confirmed the selection of TIE as the prospective developer of the Project.

On February 17, 1999, the Board of Directors of the Authority adopted a resolution authorizing the Executive Director of the Authority to enter into an exclusive negotiating agreement ("the "ENA") with TIE for the development of the Project in accordance with the RFP and TIE's response to the RFP ("TIE's Proposal"). Among other things, the ENA included a series of milestones related to the Authority's negotiations with TIE, including the following: (i) the negotiation and execution of an interim sublease for operation of the existing marina, (ii) the development and endorsement of a preliminary development concept (the "PDC") for the long term development of the New Marina (as described below) that describes, among other things, proposed project boundaries, a phasing plan, proposed uses and general facility design,

and (iii) the negotiation and endorsement of a term sheet addressing the material business terms of the proposed DDA and Ground Lease, including financing plans for each phase of development and community programs, including hiring plans consistent with the TIHDI job broker programs, and an updated phasing plan for development of the Project.

On September 2, 1998, the Authority and TIE entered into a two-year sublease for the interim operation by TIE of the existing marina, including, without limitation, the performance of all property management, marketing, leasing, protection, maintenance and repair responsibilities of the Authority required under its Master Lease with the United States Government, acting by and through the United States Navy (the "Navy"). The Parties intend to extend the term of such sublease until such time as construction of the New Marina is complete.

On November 10, 1999, the Authority considered TIE's PDC for the New Marina. A revised copy of the PDC consistent with this Term Sheet is attached hereto as Exhibit A.

On December 21, 2000, the Authority approved an extension of the ENA.

Concurrently with its exclusive negotiations with TIE, the Authority is in the process of adopting a redevelopment plan in accordance with the Community Redevelopment Law and negotiating with the Navy for the conveyance of the Base from the Navy to the Authority pursuant to the Authority's application for Economic Development Conveyance dated June 19, 2000. Additionally, the City has endorsed a Draft Reuse Plan for the Base which was developed following extensive community and public input and discussion. The parties currently contemplate that prior to entering into any agreements for the lease and development of the Premises (i) all required environmental review for the Project under the California Environmental Quality Act ("CEQA") and the National Environmental Protection Act ("NEPA") will have been completed, (ii) both the Authority and the City will have approved a redevelopment plan for the Base in accordance with the Community Redevelopment Law and a Sub-Area Specific Plan for the New Marina that allows development of the Project, and (iii) the Navy will have conveyed fee title to the Premises to the Authority. In the event that the Navy has not conveyed fee title to the Premises to the Authority by the time all CEQA and NEPA documentation necessary to approve the Transaction Documents (defined below) have been completed, the parties agree to negotiate in good faith to transfer and develop the Premises as provided herein pursuant to a Lease in Furtherance of Conveyance ("LIFOC") between the Navy and the Authority and a sublease between the Authority and the Developer on substantially the same terms as the terms of the Lease described below.

The Authority is also in the process of selecting a "Master Developer" to implement and oversee overall development of the Base pursuant to the City's Reuse Plan for the Base and specific development plans to be approved by the Authority in connection with such selection process (the "Base-Wide Master Development Plan").

II. PROJECT DESCRIPTION

A. The Premises.

The Premises will be generally comprised of a thin strip of land along the southern edge of Treasure Island and the water area running from the western end of the causeway (connecting Treasure Island with Yerba Buena Island) approximately 2,100 feet along the water's edge of the southern end of Treasure Island to the location of the proposed floating breakwater/wave attenuator at the southeastern end of Treasure Island and extending approximately 900 feet into Clipper Cove from the southern edge of Treasure Island. The Premises will not include Building 180 and the adjacent parking lot between Building 180 and Building 2. The Premises are more particularly described in two separate phases, as shown in the attached Exhibits B-1 and B-2. The Phase I Premises are depicted on Exhibit B-1, and the Phase II Premises are depicted on Exhibit B-2, and include an area in the northeastern corner of Treasure Island for drystack boat storage. Together, the Phase I Premises and the Phase II Premises shall hereinafter be referred to as the "Premises".

B. The Scope of Development.

As depicted in the PDC attached hereto as Exhibit A, the Project will consist of two distinct phases: (i) first, TIE will construct certain permanent waterside improvements and temporary landside improvements (the "Phase I Waterside Improvements"), and (ii) then, upon the satisfaction of certain conditions precedent, TIE will construct certain additional permanent landside improvements (the "Phase II Landside Improvements"). Together, the Phase I Waterside Improvements and the Phase II Landside Improvements are sometimes collectively referred to herein as the "New Marina."

1. As more specifically shown on the PDC, the Phase I Waterside Improvements will consist of the following:

a. Marina Slips. TIE shall construct approximately 400 boat slips with energy conservation metering, telephone and cable services, and security. The slip lengths will range in size in order to provide flexibility for servicing all types of boats.

b. Public Pier. An approximately 700-foot long by 12-foot wide public pier (the "Public Pier") located generally at the center of the New Marina. The public pier shall be handicapped accessible and shall be designed to allow for manually launched, non-motorized, light watercraft such as kayaks and canoes. There shall be public docking area and public pedestrian space on the pier in substantial conformity with the PDC attached hereto as Exhibit A.

c. Floating Breakwater/Wave Attenuator. TIE shall install a floating breakwater/wave attenuator (the "Wave Attenuator") in substantial conformity with the PDC attached hereto as Exhibit A, which may include, without limitation, state-of-the-art fuel and pump-out facilities. The Wave Attenuator may contain facilities for a convenience store and temporary side ties.

d. Walkway, Landscaping, and Other Improvements. TIE shall construct or install a temporary walkway, temporary landscaping, and construct or install other temporary improvements as shown in the PDC. Such other temporary improvements shall include, without limitation, one or more temporary restroom, shower, and laundry facilities and such other temporary landside improvements as are necessary for the use and enjoyment of, and to connect and provide access to, the Phase I Waterside Improvements.

e. Temporary Parking Areas. TIE shall construct and/or may utilize temporary parking as follows: (i) shared use of approximately 30 parking spaces in the current marina parking/Delancey Street Café parking area; (ii) approximately 45 parking spaces in front of Building 2; (iii) approximately 65 parking spaces in front of Building 3; and (iv) 100+ parking spaces at the southeastern corner of Treasure Island, east of Building 3.

f. Dredging. TIE shall perform or cause the performance of all dredging in Clipper Cove necessary for the construction of the Phase I Waterside Improvements and the operation of the New Marina. TIDA shall cooperate fully with TIE in all aspects of the permitting process for dredging activities, except that TIE shall be solely and exclusively responsible for the costs of any dredging in Clipper Cove and TIDA shall not be required to incur any costs in connection with such cooperation.

g. Demolition. TIE shall demolish the existing marina in phases as described further below.

2. As more specifically shown on the PDC, the Phase II Landside Improvements will consist of the following elements:

a. Buildings A and B: Two new buildings will be constructed by TIE at the locations generally depicted as Building A and Building B on the PDC. Building A will be used as a restaurant and catering service, and Building B will be used as public space, a yacht club, and other administrative and office uses. Both buildings will be two-stories in height. Building A will be approximately 11,500 square feet, and Building B will be approximately 9,150 square feet.

b. Permanent Parking. TIE shall construct and/or may utilize permanent parking as follows: (i) shared use of approximately 30 parking spaces in the Marina parking/Delancey Street Café parking area; (ii) approximately 45 parking spaces in front of Building 2; (iii) approximately 65 parking spaces in front of Building 3; and (iv) 100+ parking spaces at a mutually satisfactory location to be developed in conjunction with the Base-Wide Master Development Plan. To address runoff from the permanent parking, TIE will install the following improvements: (X) TIE will trench drains at the lowest edge of existing streets to collect and direct the run-off

through a sediment trap, where oil, grease and other sediment will be captured, before flowing into the Bay; and (Y) TIE will upgrade existing catch basins to filtering systems to ensure that oil, grease and other sediments do not run-off into the Bay.

c. Dry-Stack Storage. The Authority will include in the Phase II Premises an area in the northeast corner of Treasure Island and an existing boat launch for dry-stack boat storage.

d. Walkway, Landscaping, and Other Permanent Landside Improvements. TIE shall construct a permanent walkway and install landscaping on the Phase II Premises (the "Walkway and Landscaping Finishes"), and construct or install such other improvements on the Phase II Premises set forth in the PDC. Such other improvements shall include, without limitation, one or more restroom, shower, and laundry facilities and such Phase II Landside Improvements as are necessary to connect and provide access to the Phase I Waterside Improvements. The Walkway and Landscape Finishes shall be located within the Phase II Premises and shall be part of a greater perimeter pathway around Treasure Island to be constructed by the Master Developer in accordance with the Base-Wide Master Development Plan

C. Phasing

The New Marina shall be constructed in substantial accordance with the schedule of performance attached hereto as Exhibit C (the "Schedule of Performance"). The Phase I Waterside Improvements will itself consist of two subphases: (A) the construction of 250 new boat slips, the Wave Attenuator, the Public Pier, temporary restrooms, showers, and offices, and those temporary Landside improvements that are necessary to connect and provide landside access to those waterside improvements to be constructed in this first subphase, and (B) the demolition of the existing 108 boat slips, walkway and other improvements from the existing marina and construction of approximately 150 new boat slips, a temporary walkway and temporary landscaping along the shoreline, and temporary improvements to parking areas as described in the PDC and Final Development Concept.

The Phase II Landside Improvements will be constructed upon satisfaction of the conditions to disposition of the Phase II Premises set forth below and in accordance with the timeframes set forth in the Schedule of Performance.

TIDA shall guarantee TIE access to and from the Premises.

D. Final Development Concept.

Prior to the Authority's approval of the DDA, TIE shall prepare and submit to the Authority for its reasonable approval, a final development concept for the New Marina based on and in substantial conformance with the PDC attached hereto (the "Final Development Concept"). TIE shall present a draft Final Development Concept at a workshop with the Authority in accordance with the Schedule of Performance. TIE shall modify the draft Final Development Concept based upon comments received at the workshop with the Authority and

subsequently present the revised Final Development Concept at a public workshop on Treasure Island that includes the Treasure Island Citizen's Advisory Board. Upon completion of the workshops, TIE shall submit a further revised Final Development Concept to the Authority for its approval. Once the Authority has approved the Final Development Concept, the Final Development Concept will be attached to the DDA as an exhibit and will comprise the "Scope of Development" thereunder.

E. Public Improvements.

In order to integrate development of the New Marina into the Base-Wide Master Development Plan, TIE will need to construct certain facilities and provide certain services that will provide base-wide benefits. Accordingly, TIE shall be entitled to receive a rent credit under the Lease for the following costs (collectively, the "Public Improvements Costs"):

1. The actual hard costs of the dredging described in the Phase I Waterside Improvements and any actual, commercially reasonable interest thereon, to the extent any of such costs and interest have been approved in advance by the Authority.

2. 50% of the actual hard costs of the Walkway and Landscaping Finishes, to the extent such costs have been approved in advance by the Authority

TIE will receive the benefit of certain Base-Wide improvements to be made by the Master Developer pursuant to the Base-Wide Master Development Plan, including the following: perimeter seismic retrofitting around Treasure Island, public streets, street lighting, sewers, and storm drains and the installation of basic infrastructure facilities (together, the "Basic Base Improvements"). Upon a review of TIE's pro-forma for the Marina by a qualified consultant, the Parties will consider the appropriate amount, if any, of a reasonable fee for TIE's pro rata share of Basic Base Improvements. This fee, if assessed, shall be due and payable upon the Phase II Trigger Date (as defined below) and may be paid to the Authority or the Master Developer as the Authority may, in its sole discretion, designate.

III. TRANSACTION DOCUMENTS AND TERMS

A. Generally. The transaction documents shall consist of the DDA and Lease, and such other related documents between the Authority and TIE as may be necessary and advisable to complete and operate the New Marina (the "Transaction Documents"). The DDA will deal with, among other things, site assembly and delivery, the scope of development, the schedule for performance and the financing plan for construction of the New Marina and any necessary infrastructure. The agreed-upon form of the Lease will be attached to the DDA. The Phase I Premises will be delivered to TIE under the Lease when the conditions to delivery of the Phase I Premises pursuant to the DDA are satisfied, and the Phase II Premises will be delivered to TIE under an amendment to the Lease when the conditions to delivery of the Phase II Premises pursuant to the DDA are satisfied. Upon the Developer's satisfactory completion of construction of the New Marina, the DDA will terminate. Thereafter, the Lease will govern all of the rights and obligations of the parties with respect to the Premises. In either phase, before completion of

that phase (but after the close of the applicable escrow), both the DDA and the Lease will apply, but the DDA will control in the event of any inconsistency between the DDA and the Lease.

B. Conditions to Effectiveness of the Transaction documents. The Authority and TIE may enter into the Transaction Documents only upon (i) the completion of all appropriate environmental review of the City's draft Reuse Plan and the New Marina under CEQA, (ii) the final adoption of a redevelopment plan for the Base and a Sub-Area Specific plan for the development of the Project by the Authority and the Board of Supervisors, (iii) conveyance by the Navy of fee simple title or a mutually acceptable LIFOC in the Premises to the Authority, (iv) approval of the Transaction Documents by the Authority, the Board of Supervisors, and the Mayor, (v) any other required governmental approvals, and (vi) the Authority's reasonable approval of evidence of TIE's authorization to enter into the Transaction Documents and its ability to be bound by the obligations thereunder, including without limitation, opinions of counsel. The significant terms and conditions of the Transaction Documents are set forth below.

C. The Disposition and Development Agreement.

Term	The term of the DDA will be from the date of full execution of the DDA and, unless earlier terminated according to its terms, until the date the Authority records Certificates of Completion for both the Phase I Waterside Improvements and the Phase II Landside Improvements.
Holding Rent	TIE shall pay the Authority holding rent in the amount of $100,000 immediately upon execution of the DDA.
The Premises	The DDA will contemplate the development and disposition of the entire Premises, but will set forth separate conditions for the disposition of the Phase I Premises and the Phase II Premises and TIE's related obligations to construct the Phase I Waterside Improvements and the Phase II Landside Improvements.
Disposition of Phase I Premises	Upon the effective date of the DDA, the Authority will open an escrow for the disposition of the Phase I Premises (the "First Escrow"). Upon the satisfaction of all conditions to the First Escrow set forth in the DDA, the Authority will lease the Phase I Premises to TIE under the Lease to construct and operate the Phase I Waterside Improvements (together with a non-exclusive license for TIE to use certain portions of the Phase II Premises).
Conditions to Authority's Obligation to Lease the Phase I Premises to TIE and TIE's obligations to construct the Phase I Waterside Improvements	The Authority will not be obligated to deliver the Phase I Premises under the Lease until all of the following conditions to the First Escrow have been satisfied: (1) the Authority has reviewed and approved, and TIE has deposited into escrow a Job Broker Agreement between the Treasure Island Homeless Development Initiative ("TIHDI") and TIE, (2) the Authority has reviewed and approved and TIE has deposited into escrow a management agreement between TIE and Almar for the entire

	term of the Lease, (3) The Authority has approved construction documents for the Phase I Waterside Improvements, according to the document review and approval processes set forth in the DDA, (4) TIE has paid the Holding Rent and any DDA extension Fees that may be due and owing at the time of the closing of the First Escrow, (5) TIE has obtained a building or site permit for construction of the Phase I Waterside Improvements and any other required approvals from City regulatory bodies or commissions, including without limitation, the City's Planning Commission and Arts Commission, (6) TIE has obtained all other regulatory approvals needed to construct and operate the Phase I Waterside Improvements, including without limitation, any dredging and other permits needed from the Bay Conservation and Development Commission ("BCDC"), the California Department of Toxic Substance Control ("DTSC"), the Regional Water Quality Control Board, the Army Corps of Engineers, and the City, (7) TIE has provided evidence reasonably satisfactory to the Authority that TIE has obtained private financing commitments adequate to complete construction of the Phase I Waterside Improvements, (8) TIE has entered into a stipulated sum, guaranteed maximum price, or cost plus contract for construction of the Phase I Waterside Improvements, (9) TIE has in place all insurance required under the DDA and has deposited evidence thereof into escrow and, (10) TIE has deposited into escrow a duly executed and authorized guaranty duly signed by an authorized officer or representative of OA 3, LLC, guaranteeing TIE's full and complete performance of each of TIE's obligations under the Lease (the "Lease Guaranty"), a letter of credit or some other negotiable instrument satisfactory to TIDA subject to commercially reasonable limitations inlight of the scope and amount of the insurance and other security provided.
Disposition of Phase II Premises	The DDA shall grant an option in favor of TIE and a put in favor of the Authority to amend the Lease to include the Phase II Premises upon the satisfaction of all conditions precedent to the Second Escrow stated below, and such amendment shall be executed and delivered upon the close of such Second Escrow.
Conditions to Authority's Obligation to Lease to TIE and TIE's Obligations to Lease from the Authority and Develop the Phase II Improvements on the Phase II Premises	Neither the Authority nor TIE will have any obligations under the DDA or the Lease as to the construction or operation of the Phase II Landside Improvements until the date the Master Developer completes construction of those portions of the Basic Base Improvements located within or directly affecting the Phase II Premises (the "Phase II Trigger Date"). Notwithstanding the foregoing or anything else contained herein, if the Phase II Trigger date does not occur within five years of the effective date of the DDA, TIE, may by giving written notice to the Authority,

	elect to construct, install, and complete those portions of the Basic Base Improvements located within or directly affecting the Phase II Premises and thereafter to develop the Phase II Improvements on the Phase II Premises. If the Authority has not received any written notice from TIE electing to construct, install, and complete such Basic Base Improvements within 90 days after the end of five years from the effective date of the DDA, either Party, in its sole and absolute discretion, may terminate the DDA and all rights and obligations of the Parties as to the Phase II Premises (but without affecting the rights and obligations of the parties under the Lease with regard to the Phase I Premises) shall expire. Upon the Phase II Trigger Date, the Authority will open an escrow for disposition of the Phase II Premises (the "Second Escrow"). The Authority will have no obligation to deliver the Phase II Premises pursuant to an amendment to the Lease until all of the following conditions to the close of the Second Escrow have been satisfied: (1) the Authority has reviewed and approved, and TIE has deposited into escrow an amendment to the Job Broker Agreement between the TIHDI and TIE reflecting additional employment opportunities under the Phase II Landside Improvements, (2) the Authority has reviewed and approved and TIE has deposited into escrow a management agreement between TIE and a manager for the restaurant, or sublessee (3) TIE has deposited the full amount of the Infrastructure Advance into the Second Escrow (if applicable), (4) TIE has Completed the Phase I Waterside Improvements as required under the DDA, and TIE is not in default under the DDA or the Lease; (5) The Authority has approved construction documents for the Phase II Landside Improvements, according to processes set forth in the DDA, (6) TIE has obtained a building or site permit for construction and operation of the Phase II Landside Improvements; and any other required approvals from City regulatory bodies or commissions, including without limitation, the City's Planning Commission and Arts Commission, (7) TIE has obtained all other regulatory approvals needed to construct and operate the Phase II Landside Improvements, including without limitation, any permits needed from the BCDC, the DTSC, the Regional Water Quality Control Board, the Army Corps of Engineers, and the City, (8) TIE has provided evidence reasonably satisfactory to the Authority that TIE has obtained private financing commitments adequate to complete construction of the Phase II Landside Improvements, (9) TIE has entered into a stipulated sum, guaranteed maximum price, or cost plus contract for construction of the Phase II Landside Improvements.
Condition of Premises	TIE will accept the Premises in its "AS IS, WITH ALL FAULTS"

	condition as of the date of delivery of possession, without representation or warranty of any kind as to the suitability of the Premises for construction or subsequent use by TIE. The Authority shall have no responsibility for any condition of either the Phase I Premises or the Phase II Premises, including without limitation, the presence of any hazardous materials or hazardous wastes, existing as of the date of the Initial Closing, and TIE shall waive any potential claims against the Authority arising from the condition of the Premises.
Navy's Section 330 Indemnity Obligation	The Parties hereby acknowledge and agree that, pursuant to Section 330 of Public Law 102-484, as amended, Navy is required to hold harmless, defend and indemnify the Authority and TIE from and against any suit, claim, demand, action, liability, judgment, cost or fee, arising out of any claim for personal injury or property damage (including death, illness, loss of or damage to property or economic loss) that results from, or is in any manner predicated upon, the release or threatened release of any hazardous substance, pollutant, contaminant, petroleum product, or petroleum derivative from or on the Premises as a result of Department of Defense activities at the Base.
Approval of Construction Plans	TIE shall prepare and submit to the Authority for approval preliminary and final construction plans for the construction of the New Marina based upon the Final Development Concept. The Authority shall review such construction plans for consistency with the Final Development Concept and other project requirements set forth in the DDA.
Development of Premises	TIE shall, at no cost to the Authority, take all actions necessary to prepare the Premises and construct each phase of the New Marina on the Premises within the times set forth in the Schedule of Performance and in the manner set forth in the DDA. The costs of due diligence and constructing each phase of the New Marina shall be borne solely by TIE. TIE shall construct the New Marina in full compliance with all federal, state or local laws or regulations applicable to the Premises, including Prevailing Wages as set forth below.
Schedule of performance	Subject to delays beyond its reasonable control, TIE will Complete construction of the New Marina in accordance with the Schedule of Performance as follows: (A) TIE shall cause the First Escrow to close within 12 months of the execution of the DDA and shall Complete construction of the Phase I Waterside Improvements within 18 months of the close of the First Escrow, with the date that is 30 months after execution of the DDA being the "Phase I Target Date"; and (B) TIE shall cause the Second Escrow to close within 12 months of the Phase II Trigger Date and shall Complete construction of the Phase II Landside Improvements within 12 months of the close of the Second

	Escrow, with the date that is 24 months after the Phase II Trigger Date being the "Phase II Target Date". Provided that TIE is not then in default of any of its obligations under the Transaction Documents, TIE shall have the right to automatically extend either the Phase I Target Date or the Phase II Target Date by up to a maximum of six months each by paying to the Authority a DDA Extension Fee equal to $10,000 per month up to the maximum number of months that each Target Date is extended. If TIE fails to Complete construction of either phase within six months of the applicable Target Date (in either case, the "Upset Date') for any reason other than an event of force majeure or a default by the Authority, TIE shall be in default under the DDA and in addition to any of the Authority's other rights or remedies under law, the DDA shall automatically terminate and TIE shall pay the Authority a DDA Termination Fee of $100,000.
Definition of Completion	For purposes of the DDA, "Completed" means the completion by TIE of construction of all aspects of the New Marina (or as to either phase, as to such phase) in accordance with the approved construction documents, applicable regulatory approvals and any other requirements of the DDA. Completion of Construction of the New Marina will be evidenced by the Authority's issuance of a Certificate of Completion.
Regulatory Approvals	TIE will be responsible for obtaining, at its cost, all land use entitlements, including permits and approvals required in connection with the construction of each phase of the New Marina from any local, state or federal regulatory agency having jurisdiction over the Premises. TIE will consult with and coordinate with the Authority prior to TIE's efforts to obtain such permits from other agencies, and TIE shall pay the costs of any mitigation measures required as a result of environmental review of any portion of the Project. The Authority will cooperate reasonably with TIE to approve in advance any conditions that TIE proposes to agree to voluntarily in connection with TIE's efforts to obtain a permit from another regulatory body, which approval shall not be unreasonably withheld, delayed or conditioned.
Cooperation of Authority Re Dredging	The Authority will reasonably cooperate with TIE in submitting applications for loans, grants and permit applications to other local, state and/or Federal agencies for purposes of obtaining a dredging permit, provided that all costs of applying for and paying accrued interest and principal on any loans issued for the dredging project will be borne solely by TIE.
Insurance and Bond Requirement Indemnification	During the term of the DDA, TIE will maintain builders' risk insurance (including, to the extent available at commercially reasonable rates, earthquake and flood insurance) from carriers of recognized responsibility. Except with respect to earthquake

	insurance, such insurance shall be in the amount of 100% of the completed value of the construction. With respect to earthquake insurance, TIE and the Authority shall mutually agree as to the percentage of the completed value of the construction. TIE's construction contractor shall furnish to the Authority a performance bond issued by a responsible surety company licensed to do business in California and satisfactory to the Authority in the Authority's reasonable discretion. Such bond shall guarantee installation of the New Marina in an amount not less than the value of the improvements. TIE shall indemnify the Authority from all losses arising from TIE's use or operation of the Premises under the DDA, except to the extent such losses were caused by the willful misconduct or gross negligence of the Authority.
Guaranty	TIE shall provide the Authority with an executed original of a performance guarantee duly signed by an authorized officer or representative of OA 3, LLC, guaranteeing TIE's full and complete performance of each of TIE's obligations under the DDA, including its obligations to complete construction of the Improvements and to pay the Holding Rent and any DDA Extension Fees and/or DDA Termination Fees (the "DDA Guaranty"). Upon the Completion of construction of the New Marina, the DDA Guaranty, letter of credit or other negotiable instrument accepted by TIDA (but not the Lease Guaranty) shall terminate
Termination	Either party may terminate the DDA in the event of an uncured event of default by the other party, subject to the rights and remedies set forth below. In addition, if either phase of the New Marina is not Completed by the applicable Upset Date set forth in the Schedule of Performance, the DDA shall automatically terminate.
Remedies	In addition to the Termination Fee for failure to Complete construction of the New Marina by the Upset Dates, upon the occurrence of an event of default under the DDA by TIE, the Authority may terminate the DDA, institute an action for specific performance, assert its rights under the DDA Guaranty and/or assert any rights and remedies that it may have under law, provided that TIE shall not under any circumstances be liable for consequential damages. Upon the occurrence of an event of default under the DDA by the Authority, TIE may terminate the DDA and/or institute an action for specific performance. In addition, if, and only if, the Authority willfully defaults in its obligation to deliver a

	Certificate of Completion, the Authority will be liable for TIE's actual out of pocket damages arising out of such willful default, provided that the Authority shall not under any circumstances be liable for consequential damages.
Closing Costs	TIE shall pay any and all closing costs associated with the closing of the Lease under the DDA, including, without limitation, transfer taxes, escrow and title fees.

B. The Lease.

The Premises	The Lease will cover the Premises together with all easements reasonably required by TIE for unrestricted water access into and out of Clipper Cove and for reasonable landside access to the Premises. Upon the close of the First Escrow the Lease will cover the Phase I Premises only, with limited rights of access over the Phase II Premises. Upon the close of the Second Escrow, the Lease will be amended to cover the entire Premises.
Condition of Premises	TIE will accept the Premises in its "AS IS, WITH ALL FAULTS" condition as of the date of delivery of possession, without representation or warranty of any kind as to the suitability of the Premises for construction or subsequent use by TIE. The Authority shall have no responsibility for any condition of either the Phase I Premises or the Phase II Premises, including without limitation, the presence of any hazardous materials or hazardous wastes, existing as of the date of the Initial Closing, and TIE shall waive any potential claims against the Authority arising from the condition of the Premises.
Navy's Section 330 Indemnity Obligation	The Parties hereby acknowledge and agree that, pursuant to Section 330 of Public Law 102-484, as amended, Navy is required to hold harmless, defend and indemnify the Authority and TIE from and against any suit, claim, demand, action, liability, judgment, cost or fee, arising out of any claim for personal injury or property damage (including death, illness, loss of or damage to property or economic loss) that results from, or is in any manner predicated upon, the release or threatened release of any hazardous substance, pollutant, contaminant, petroleum product, or petroleum derivative from or on the Premises as a result of Department of Defense activities at the Base.
Term	The term of the Lease shall be 25 years from the date of the close of the First Escrow. TIE shall have options to extend the Term of the Lease for up to an additional forty (40) years.
Uses	TIE may use the Premises solely as a marina open to the general public and related uses, including without limitation, boat slip

	rentals, boat storage, boat and other light water craft launching, boat fuel sales, minor repairs of boats, full service restaurant, entertainment, alcoholic beverage service, catering services, convenient store, boat and marina equipment sales and services, related retail sales, public gathering (including a yacht club), office and administrative uses, parking, restrooms and public convenience facilities, temporary special event activities, displays and conferences, all as set forth in the PDC and the Final Development Concept, and any other commercial activity reasonably related to the use of the Premises as a commercial marina approved by the Authority in the Lease (the "Approved Uses"). TIE shall be entitled to charge market rates for slip fees, berth fees, dry stack storage fees and other moorage fees and services and goods sold from the Premises that are comparable to the market rates charged by other area marina operators operating at the mutually agreed Approved Operating Standard .
Preference for Persons already on the Marina waiting list and for Treasure Island/Yerba Buena Island Residents	TIE shall first grant a preference to those persons already on the Marina waiting list as of September, 1998, and then to residents of the Base rights of first refusal in the rental of boat slips at the rates TIE charges other boat slip renters as permitted under the Lease. The rights of first refusal will be more particularly set forth in the Lease.
Rent	Upon close of the First Escrow (and for the period therefrom until the Completion of the Phase I Waterside Improvements), TIE shall pay the Authority Minimum Rent in the amount of $100,000. Upon Completion of the Phase I Waterside Improvements, TIE shall pay the Authority as Rent (i) Minimum Rent in the amount of $100,000 per year, as adjusted upwards on the 3rd, 4th, and 5th lease years, and every five years thereafter, by increases in the CPI, or (ii) Percentage Rent, as defined below. Percentage Rent shall mean the percentages of Gross Revenues set forth in Exhibit D attached hereto. Gross Revenues shall mean for each TIE Fiscal Year, or portion thereof, any and all gross rentals, payments, receipts, fees, proceeds, and revenues of any kind actually or constructively received by TIE in connection with the ownership, use or operation of the Premises, including without limitation, gross amounts received from or in respect of any subleases, sales, advertising, licensing, programming, concessions or other agreements affecting the Premises such as revenues from fixed rentals, minimum or base rentals, percentage or participation rentals, payments for common area maintenance expenses, or any sublease amendment or termination fees, exclusive of passthroughs, sale of personal property, and/or regulated utility

	charges.
Rent Credits	TIE shall receive a rent credit for the following: (i) the sum of the RFP Deposit, the Transaction Cost Deposit, and any Extension Option Deposit pursuant to the ENA and (ii) the Public Improvements Costs. If the amount of Rent Credits exceeds the amount of Rent due each year, the balance of Rent Credits shall be carried over and deducted from each following year until all Rent Credits have been fully accounted for.
Payment of Rent	Minimum Rent, less any applicable rent credits, shall be paid in advance on the first day of each month. Percentage Rent shall be paid annually in arrears, but only to the extent Percentage Rent exceeds Minimum Rent.
Books and Accounts	TIE shall maintain complete and accurate accounting records for all revenues and operating costs for four (4) years after the TIE Fiscal Year to which such records relate. TIE shall also maintain complete and accurate accounting records of all construction costs for the New Marina for a period of four (4) years after the end of the issuance of a Certificate of Completion. Promptly (but in no event exceeding thirty (30) days) following a written request from the Authority, TIE shall make such accounting records (or copies thereof) available for inspection (but not copying, except to the extent such information is public information) and audit by the Authority, during customary business hours at a location reasonably satisfactory to the Authority.
Authority's Participation in Net Revenues of Future Sales & Refinancings	The Authority will participate in the proceeds from any refinancings, sales or sublease of the New Marina to the extent that TIE has achieved or will have achieved through such refinancings, sales or sublease a 10% Preferred Return on its Capital Costs: As used herein below, the following terms shall have the meanings set forth below: (i) "Capital Costs" shall mean the original actual hard costs of constructing the New Marina plus any subsequent approved capital improvements; (ii) "Net Operating Income" or "NOI" shall mean all gross revenues (including any expense reimbursements received from grants), broadly defined, received by or on account of the Developer from the Project, less (a) reasonable operating expenses, and (b) uncollectable rent and refunds for overpayment of rent; and (iii) "10% Preferred Return" shall mean for any applicable sale, refinancing, or subleasing, the

balance of Capital Costs and approved capital improvements plus a 10% rate of return per annum thereon and any approved capital contributions for accrued Net Operating Losses (to be defined in the Lease) less any NOI for any year prior to sale, refinancing, or subleasing which has not been previously deducted from the Capital Costs. The 10% Preferred Return shall be cumulative and accrued, less distributions made to TIE members, and calculated and reported to the Authority annually regardless of whether there has been any sale, sublease or refinancing.

a. Authority participation in refinancings shall be 50% of the net proceeds from a refinancing as a result of increases in the principal amount borrowed (i.e., all proceeds from the refinancing less (i) in the case of the first refinancing, the 10% Preferred Return and in the case of any subsequent refinancing the greater of the gross proceeds from the prior refinancing or the 10% Preferred Return, (ii) reasonable closing fees and (iii) reasonable prepayment penalties, if any).

b. The Authority's participation in sales shall be 50% of the net proceeds from the sale (i.e., all proceeds from the sale less (i) in the case of the first sale, the 10% Preferred Return and in the case of any subsequent sale the greater of the gross proceeds from the prior sale or the 10% Preferred Return, (ii) reasonable closing fees and brokerage fees, and (iii) reasonable prepayment penalties, if any).

c. The Authority's participation in any sublease or assignment of all or substantially all of the Premises shall be 50% of any rent or other consideration realized by TIE under any such assignment or sublease in excess of the Rent payable hereunder (or the amount thereof proportionate to the portion of the Premises subject to such assignment or sublease), after TIE has recovered its 10% Preferred Return and any verifiable, customary and reasonable brokers' commissions and the verifiable, customary and reasonable cost of any leasehold improvements that TIE has actually incurred in connection with such assignment or sublease.

Notwithstanding the foregoing, the total amount of the Authority's participation in the proceeds from any refinancings, sales or sublease of the New Marina as set forth in sections (a)-(c) above shall be limited to the total amount of rent credits received by TIE for the Public Improvements, plus interest thereon at the

	rate of 7% per annum.
Management	Pursuant a Management Agreement with Almar approved by the Authority, TIE shall cause the Premises to be continuously operated as an approximately 400 slip marina, restaurant, and related improvements to standards comparable to the standards maintained and operated by other local marinas charging comparable slip rates, and shall use commercially reasonable efforts to maintain (or cause to be maintained) a level of economic activity in the New Marina consistent with the Approved Operating Standard.
Compliance with Laws	Throughout the Term, TIE shall use and operate the Premises and shall require all subtenants and licensees to use and operate the Premises in compliance with all applicable federal, state and local laws, rules, regulations, and ordinances. TIE shall, at no cost to the Authority, comply promptly with all present and future laws and governmental regulations applicable to the Premises (including, but not limited to, disabled access laws and hazardous materials laws), and under no circumstances will the Authority be obligated to make repairs or replacements of any kind. TIE shall be responsible for any hazardous materials remediation required by any regulatory agency with jurisdiction over the Premises in connection with TIE's use or occupancy of the Premises. Nothing herein is intended to (i) reduce or alter the Navy's Section 330 Indemnity Obligation as set forth above or (ii) impose any portion of such obligation of the Navy upon TIE.
Title to Improvements	TIE shall own the New Marina and related improvements during the Term. At the end of the Term, title to the New Marina and related improvements shall automatically vest in the Authority, subject to the surrender provisions described below.
Maintenance, Operations and Repair	The Lease shall be a 'triple-net lease" TIE shall, at no cost to the Authority, assume full and sole responsibility for the condition, maintenance, repair and operation of the Premises and the New Marina to be constructed on the Premises. TIE will throughout the Term and at its sole cost take all actions needed to maintain and operate the New Marina in accordance with the Approved Operating Standard.
Possessory Interest and Other Taxes	TIE acknowledges and agrees that a possessory interest subject to taxation will be created by the Lease and TIE will pay all possessory interest taxes and other taxes, assessments and impositions payable or arising during the Term, to the extent provided by law.
Assignment and Subletting	TIE shall not, except in accordance with a Permitted Encumbrance (as defined below), transfer, assign or sublease any of its interest in the Lease (other than affiliate transfers that do not

	result in a change in control of TIE), including causing any significant change in the ownership, control, management, financial capability or qualifications of TIE (such as the removal of OA3, LLC of at least 51% ownership interest in TIE), without the prior consent of the Authority, which consent may not be unreasonably withheld. Among other things, it shall be 'reasonable' for the Authority to withhold such consent if any proposed transferee does not have substantially the same level of qualifications or experience as evidenced by TIE in TIE's Proposal, or fails to achieve certain financial capability or other relevant thresholds. Except with respect to a Permitted Encumbrance, TIE shall not permit an assignment or other transfer under any circumstances unless the assignee expressly assumes, in writing for the benefit of the Authority, all of TIE's obligations under the Lease. The foregoing notwithstanding, TIE may not assign any of its interest in the Lease or the DDA prior to the Completion of the New Marina without the prior written consent of the Authority, which the Authority may withhold in its sole and absolute discretion. Generally, major subleases shall require the Authority's prior consent, which shall not be unreasonably withheld or delayed. Subject to the conditions and limitations provided below, TIE may sublet or license less than 5% of the space in the Phase I Waterside Improvements and up to 15% of the space in Buildings A and B to users of facilities constructed within the Premises, upon prior written notice to the Authority, but without the Authority's consent, provided that (1) the uses are consistent with the Lease, (2) the sublease or license is expressly subject to the terms of the Lease, (3) the term of the sublease or license including any extension options does not extend beyond the Term of the Lease, (4) the subtenant or licensee agrees to indemnify the Authority against losses arising out of such subtenant's or licensee's use of the Premises, (5) TIE is not in default and no event of default has occurred which with the giving of notice or the passage of time or both would constitute a default, and (6) TIE remains liable under the Lease. Subject to reasonable mortgagee protection provisions, TIE shall have no right of assignment or sublease if it is in default under the Lease or the DDA, or if any event which, with the passage of time or the giving of notice, or both, would constitute such a default.
Insurance and Damage and Destruction	TIE will maintain throughout the Term comprehensive general liability, workers' compensation, property insurance (including, to the extent available at commercially reasonable rates, earthquake

	and flood insurance), automobile liability, personal property, business interruption, host liquor law and food products liability insurance and any other insurance required by law from carriers of recognized responsibility in amounts and with coverages as may be reasonably required by the Authority's Risk Manager. Except with respect to earthquake insurance, such insurance shall be in the amount of 100% of the replacement value of the construction. With respect to earthquake insurance, TIE and the Authority shall mutually agree as to the percentage of the completed value of the construction. The Authority must be named as an additional insured on any coverage permitting the Authority to be named as an additional insured. If the Authority cannot be named as an additional insured then such insurance shall specifically insure against TIE's indemnity obligations to City under the Lease. In the event of any Major Damage to or destruction of any portion of the Project other than the marina improvements which exist as of the date of this Term Sheet during the Term, TIE will repair the damage and rebuild to their prior condition to the extent of available proceeds (provided TIE will be responsible for paying the deductible) and subject to reasonable mortgagee protection provisions. For purposes of this section, the term Major Damage shall mean 50% of the completed value of the construction. If there are insufficient proceeds to rebuild or if the casualty is uninsured, then TIE will demolish the New Marina and related improvements, or such portion thereof as the Authority may require, remove all rubble and debris and return the Premises to the Authority in a reasonably clean condition, and (subject to reasonable mortgagee protection provisions) assign its rights to any remaining insurance proceeds to the Authority. In the last 5 years of the Term, whether or not there are sufficient insurance proceeds to rebuild the improvements, TIE or its permitted assignees hereunder may terminate the Lease and will not be required to rebuild so long as TIE or its permitted assignees demolishes the New Marina and related improvements, or such portion thereof as the Authority may require, removes all rubble and debris and returns the Premises to the Authority in a reasonably clean condition, and (subject to reasonable mortgagee protection provisions) assigns its rights to any remaining insurance proceeds to the Authority.
Nondisturbance and Attornment	In the event of a termination of the Lease, the Authority will agree not to disturb the occupancies of subtenants so long as the sublease conforms to the requirements of assignment and subletting set forth above. TIE shall require all subtenants to attorn to the Authority in the event of any termination of the Lease. Any nondisturbance and attornment agreements will be on commercially reasonable terms.

Mortgage of Leasehold	TIE shall be permitted to encumber the Lease to the extent reasonably necessary to obtain acquisition, construction and permanent financing of the Project from financially responsible lender or lenders subject to the conditions set forth below and provided the mortgage complies with the conditions of the Lease and the transferee assumes in writing all of the future obligations of TIE under the Lease and provided further that TIE's residual equity interest will not be less than 30% of either the total Project value or the total Capital Costs, whichever is greater (a "Permitted Encumbrance"). The Lease shall contain commercially reasonable "mortgagee protection" provisions as necessary to permit TIE to obtain such financing and the Lease will not restrict assignment in connection with a Permitted Encumbrance to a lender by operation of a foreclosure of a mortgage or by deed in lieu of foreclosure or to a purchaser under a foreclosure sale. Notwithstanding the foreclosure of any such Permitted Encumbrance, TIE will remain liable to the Authority for the payment of all sums due from TIE under the Lease prior to such foreclosure and not otherwise recovered by the Authority. TIE shall provide the Authority with notice of any such Permitted Encumbrance. In no event will the Authority's fee interest in the Premises or interest in the Lease (including, without limitation, right to receive rent) be encumbered or subordinated. TIE may not use the leasehold as security for any financing or refinancing unassociated with the construction or operation of the Project.
Utilities and Services	TIE shall, at no cost to the Authority, procure and pay for all utility, sewer, mechanical or other services needed or useful for its operations on the Project. TIE will consider in good faith purchasing electricity and gas from the City's utility, Hetch-Hetchy Water and Power, but shall not be obligated to do so.
Cross Defaults	Upon completion of the Phase I Waterside Improvements, a default under the DDA as to the Phase II Landside Improvements shall not result in termination of the Lease insofar as it relates to the Phase I waterside Improvements, but a default under the Lease of the Phase I Waterside Improvements shall, among other things, result in a termination of all of TIE's rights to the Phase II Landside Improvements under the DDA or Lease
Remedies	Upon the occurrence of an event of default under the Lease by TIE, the Authority may keep the Lease in effect and sue for damages, terminate the Lease, institute an action for specific performance, assert its rights under the Lease Guaranty or Security Deposit and/or assert any rights and remedies that it may have under law, provided that TIE shall not under any circumstances be liable for consequential damages. Upon the occurrence of an event of default under the Lease by the

	Authority, TIE may (i) offset against Rent otherwise due and owing the amount of TIE's actual out of pocket damages arising out of such willful default, but only after TIE has obtained a final judgment in a court of competent jurisdiction therefor, or (ii) seek equitable relief, provided that the Authority shall not under any circumstances be liable for consequential damages.
Surrender of Premises	Upon the expiration or earlier termination of the Lease, TIE will return to the Authority the Premises, including without limitation, the New Marina and all related improvements (but not any personal property), in a good, clean and operable condition subject to normal wear and tear, free of any liens or encumbrances except for any permitted title exceptions.
Indemnity	TIE shall indemnify the Authority from all Losses arising from its use and operation of the Premises, except to the extent such losses were caused by the gross negligence or willful misconduct of the Authority
Security Deposit	Two times the Base Rent in cash. The amount of the Security Deposit shall be adjusted by CPI increases on the 3rd, 4th, and 5th years of the Term and every 5 years thereafter. In lieu of cash, TIE may submit to the Authority for its approval, a letter of credit or other similar financial assurance reasonably acceptable to the Authority.
TIHDI Job Broker Program	TIE shall develop a workforce hiring plan consistent with the purposes and intent of the agreement between the City and the Treasure Island Homeless Development Initiative, subject to approval by the TIDA.
Access, Cooperation and Coordination of Construction with Master Developer	TIE shall provide reasonable access in, on, under and across the Premises to the Authority, the Master Developer, and their respective officers, employees, agents, contractors, and subcontractors for the purpose of designing, constructing, maintaining, repairing, replacing, and operating storm drain and sewer improvements, seismic retrofitting, and other public improvements that may be required in a disposition and development agreement to be entered into between the Authority and the Master Developer. TIE shall reasonably cooperate and coordinate TIE's construction and other activities with the construction and other activities of the Authority, the Master Developer, and their respective officers, employees, agents, contractors, and subcontractors for the purposes stated above. The Lease shall reserve an easement for the benefit of all other land on Treasure Island for the construction, maintenance, repair, replacement, and operation of a public perimeter pathway around Treasure Island, a portion of which would go through portions of the Phase II Premises and certain other specified public improvements.

	TIDA shall required that the Master Developer cooperate with TIE and its respective officers, etc. in all aspects of the operations of the Marina.
San Francisco Sailing Center	TIE shall negotiate in good faith to enter into an agreement with the San Francisco Sailing Center to incorporate the programs, activities, and leasehold premises of the San Francisco Sailing Center into the New Marina.
Community Awareness Program	TIE shall develop and implement a community awareness program, subject to reasonable review and approval by TIDA, which focuses on (i) the Life Learning Academy; (ii) the Treasure Island Homeless Development Initiative; (iii) public schools on Treasure Island; and (iv) needs of local area youth groups, the disabled, and other persons who normally do not have access to a marina experience. The Authority hereby acknowledges that the programs and services provided by the San Francisco Sailing Center will satisfy this requirement if the Sailing Center is incorporated into this Project.

C. Special Provisions to DDA and Lease.

The Authority and TIE agree that TIE will comply with all of the following special provisions to the extent such provisions are then in effect and applicable to the Project as a matter of law.

Nondiscrimination	There will be no discrimination against any person or group of persons on account of race, color, creed, sexual orientation, gender, gender identity, disability, marital status, religion, age, national origin or ancestry by TIE or any subtenant in the construction, sublease, use, occupancy, tenure or enjoyment of the Premises. There will be no discrimination in provisions of bereavement leave, family medical leave, health benefits, and any other benefits between employees with domestic partners and employees with spouses, and/or between domestic partners and spouses of such employees.
Equal Opportunity Requirements	TIE will agree to a set of participation goals and good faith efforts designed to ensure that MBEs, WBEs and LBE's have an equal opportunity to compete for and participate in contracts for construction as well as participation goals and good faith efforts for operation of the Project and related improvements. Such goals and efforts shall equal or exceed the City's standard policies.
Conflict of Interest	TIE will state that it is familiar with the provisions of Section C8.105 of the San Francisco Charter and certify that it

	knows of no facts which would constitute a violation of such provisions. TIE will certify that it has made a complete disclosure to the Authority of all facts bearing on any possible interests, direct or indirect, which TIE believes any officer or employee of the Authority presently has or will have in the Lease or in the performance thereof or in any portion of the profits thereof. Willful failure by TIE to make such disclosure, if any, shall constitute grounds for the Authority's termination and cancellation of the Lease.
Card Check	To the extent applicable, TIE will be required to comply with the City's Employee Signature Authorization Ordinance which requires, among other things, that TIE and any operators and certain subcontractors or subtenants of the Project enter into a labor representation card check agreement with employees of the Project.
MacBride Ordinance	The City urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles.
Tropical Hardwoods/ Virgin Redwoods	The City urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood, Tropoical hardwood wood product, virgin redwood or virgin redwood wood product.
Tobacco Product Advertising Prohibition	TIE will not advertise cigarettes or tobacco products on the Premises. This prohibition includes the placement of the name of a company producing, selling, or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This prohibition does not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communication the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.
Pesticide Ordinance	TIE shall comply with the provisions of Section 39.9 of Chapter 39 of the San Francisco Administrative Code (the "Pesticide Ordinance") which (i) prohibit the use of certain pesticides on City or Authority property, (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (iii) require TIE to submit to the City's Department of the Environment an integrated pest management ("IPM") plan that (a) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that TIE may need to apply to the Premises during the terms of the DDA or Lease, (b) describes the steps TIE will take to meet the City's IPM Policy described in section 39.1 of the Pesticide Ordinance and

	(c) identifies, by name, title, address and telephone number, an individual to act as TIE's primary IPM contact person with the City.
Resource-Efficient Building Ordinance	To the extent required by City Ordinance No. 148-99 and Ordinance No. 149-99 finally adopted by the City's Board of Supervisors on May 24, 1999 relating to resource-efficient buildings, TIE will comply with the requirements of such ordinances.
Living Wage Ordinance	TIE shall comply with the requirements of the City's Living Wage Ordinance, Ordinance No. 216-00 adding Chapter 12P to the City Administrative Code.
Health Care Accountability Ordinance	TIE shall comply with the requirements of the City's Health Care Accountability Ordinance, Ordinance No. 116-01 adding Chapter 12Q to the City's Administrative Code.
Prevailing Wages During Construction	The Parties acknowledge that the development of the Project is a private work of improvement. In consideration of the Authority's providing rent credits for the Infrastructure Advance pursuant to the terms of the Lease, TIE agrees to pay or cause to be paid prevailing rates of wages for all construction work performed in connection with the New Marina, as set forth in a Prevailing Wage Agreement to be attached to the DDA as an exhibit.

While this term sheet summarizes certain essential terms of the proposed transaction, it does not set forth all of the material terms and conditions of the Transaction Documents. The signature of the Executive Director of the Authority below acknowledges her support for the proposed Project on the terms specified herein. However, this term sheet is not intended to be, and shall not become, contractually binding on the Authority or TIE, and no legal obligation shall exist pursuant to this term sheet unless and until the parties have negotiated, executed and delivered mutually acceptable Transaction Documents based upon information produced from the environmental review (CEQA) process and on other public review and hearing processes and subject to all applicable governmental approvals. The Authority retains the absolute discretion before obtaining approval of the Project by the Board of Directors of the Authority, the Board of Supervisors of the City, the Planning Commission, or any other board or commission having jurisdiction over the Project, to (i) make such modifications to the proposed terms hereof and to the proposed Project that are deemed necessary to mitigate significant environmental impacts; (ii) select other feasible alternatives to avoid such impacts; (iii) balance the benefits against unavoidable significant impacts prior to taking final action if such significant impacts cannot otherwise be avoided; or (iv) determine not to proceed with the Project. If as a result of the environmental review or other public approval process there are any proposed material modifications to the Transaction Documents or the terms specified herein that are not acceptable to the parties in their respective sole discretion, then there shall not be deemed to be any understanding of the parties to proceed with the Project under the principles outlined in this term sheet.

Read and approved by:

THE AUTHORITY:

Treasure Island Development Authority

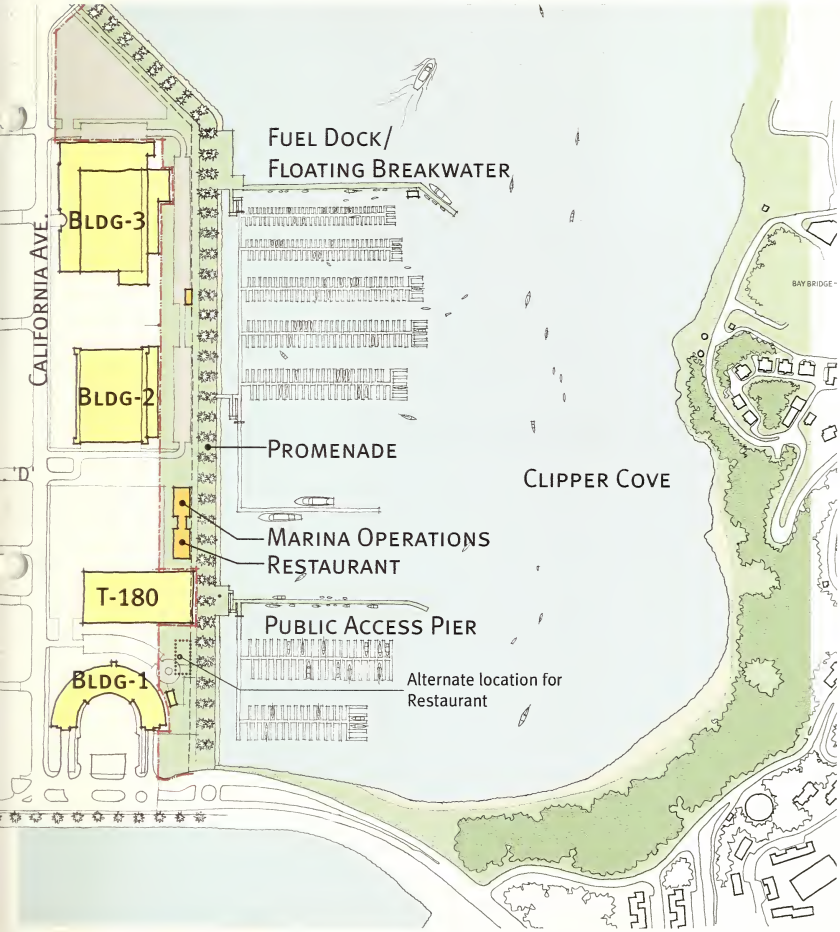
By: _____
Annemarie Conroy
Executive Director

TIE:

Treasure Island Enterprises

By: _____
Name:
Title:

Exhibit A - Preliminary Development Concept (PDC)



Treasure Island Enterprise

Treasure Island Marina P.D.C.
Exhibit A

November 8, 2001
KWAN HENMI Architecture/Planning, Inc.

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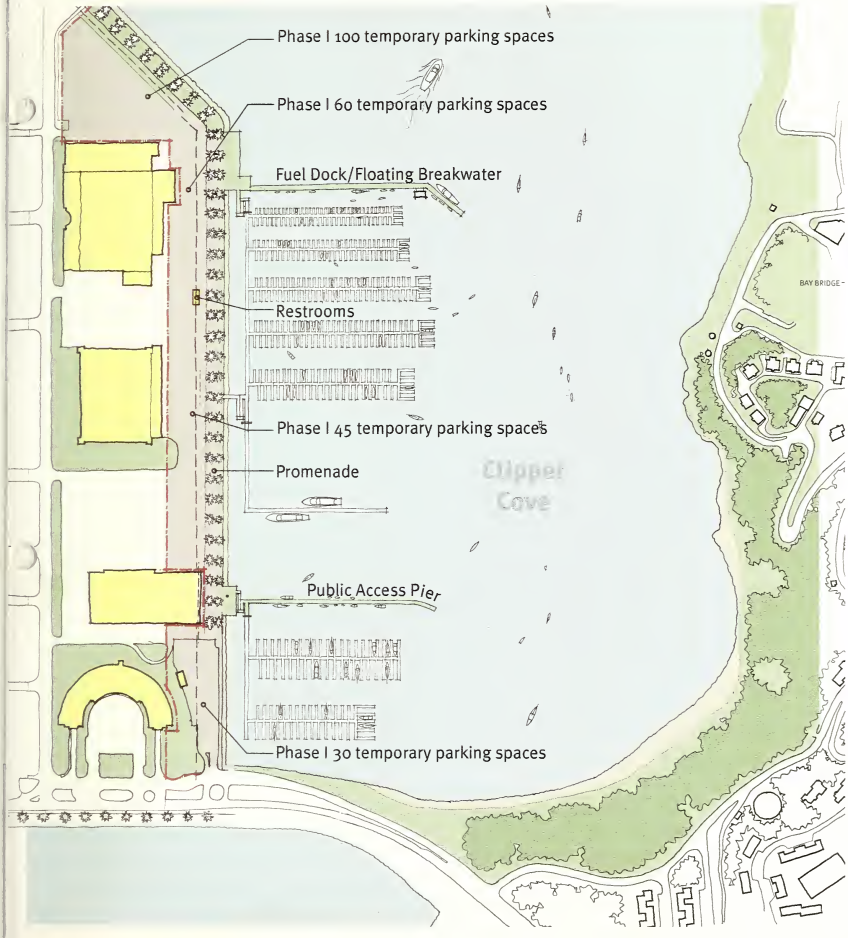
Exhibits B-1 and B-2 - Phase I and Phase II Premises



Treasure Island Enterprise

November 8, 2001
KWAN HENMI Architecture/Planning, Inc.

Treasure Island Marina P.D.C.
Exhibit B-1
Phase I Premises

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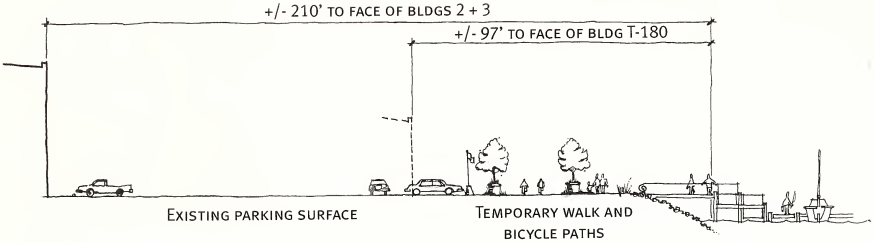
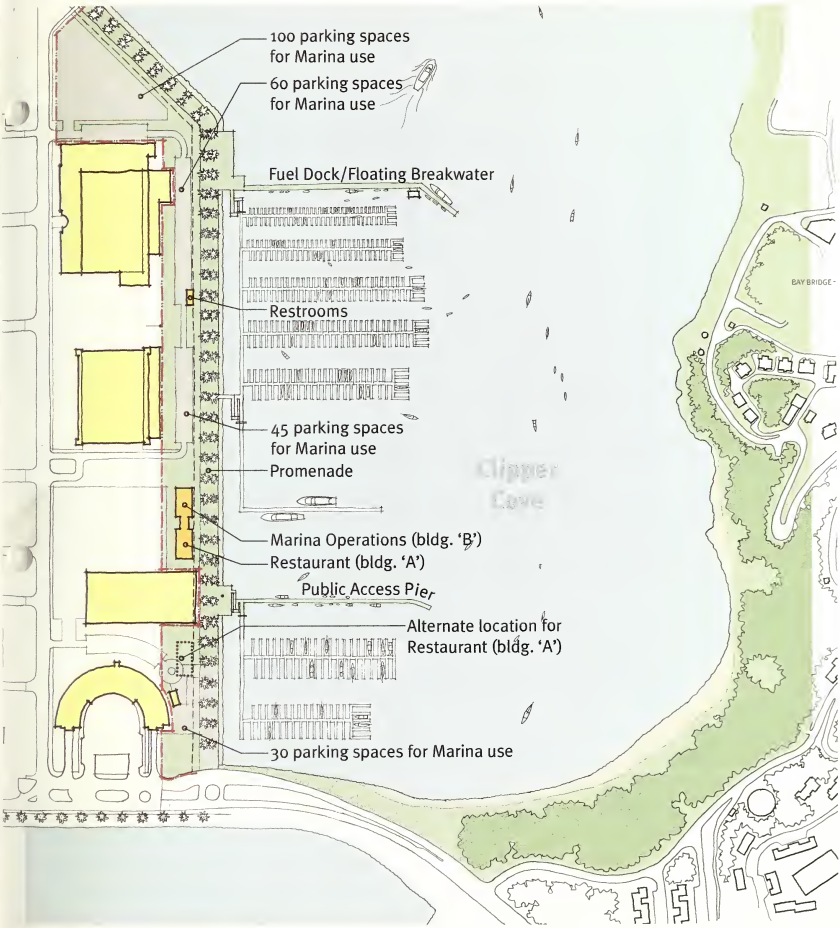


Treasure Island Enterprise

Treasure Island Marina P.D.C.
Exhibit B-1
Phase I Premises - Temporary Landside Improvements

November 8, 2001
KWAN HENMI Architecture/Planning, Inc.



Treasure Island Enterprise

November 8, 2001
KWAN HENMI Architecture/Planning, Inc.

Treasure Island Marina P.D.C.
Exhibit B-2
Phase II Premises

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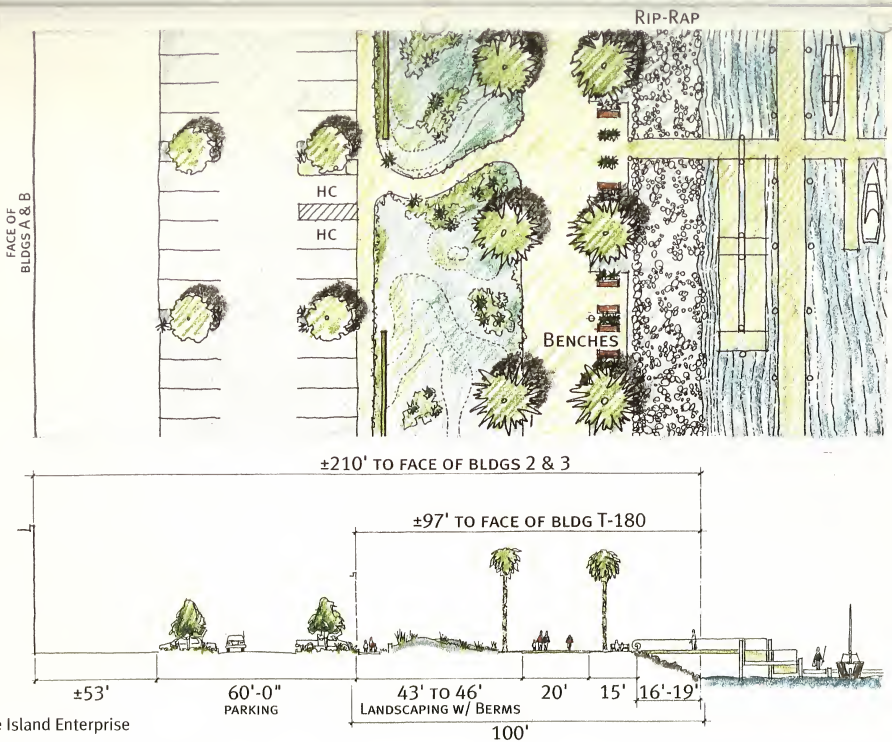

Treasure Island Enterprise

Treasure Island Marina P.D.C.

Exhibit B-2

Phase II Premises - Permanent Landside Improvements

November 8, 2001

KWAN HENMI Architecture/Planning, Inc.

Exhibit C - Schedule of Performance

EXHIBIT "C"

TREASURE ISLAND MARINA

SCHEDULE OF PERFORMANCE

Schedule	Responsible Party	Performance
1. Record of Decision	Navy	
2. EIR Certification	Authority	
3. EDC Conveyance	Navy/Authority	
4. Approval of Term Sheet	Authority	
5. Submittal of draft Final Development Plan Concept for New Marina to Authority (§II.D of Term Sheet)	TIE	90 days from Approval of Term Sheet
6. Workshop with and presentation to Authority Board of draft Final Development Plan (§II.D of Term Sheet)	TIE	First Regularly Scheduled Meeting of the Authority following Submittal
7. Modification (if necessary) and resubmittal of draft Final Development Plan based on comments from Authority Board (§II.D of Term Sheet)	TIE	3 weeks following workshop and presentation to Authority Board
8. Public Workshop on Treasure Island (which includes TI/YBI CAB) for presentation of draft Final Development Plan (§II.D of Term Sheet)	TIE	First regularly scheduled meeting of the TI/YBI CAB following submittal of revised Plan to the Authority
9. Further modification and resubmittal (if necessary) of draft Final Development Plan after workshops to Authority (§II.D of Term Sheet)	TIE	3 weeks following public workshop on Treasure Island
10. Approval of Final Development Plan by Authority (§II.D of Term Sheet)	Authority	First regularly scheduled meeting of TIDA following the later of (I) Authority's receipt of last submittal in #9 above or (ii) the public workshop on Treasure Island in #8 above
11. Final Adoption of Redevelopment Plan and Sub-Area Specific Plan	Authority - Resolution; City - Board of Supervisors Ordinance	After EIR Certification, EDC Conveyance, and Authority's approval of Final Development Plan
12. Approval of DDA and Ground Lease	Authority/City	For Authority, after Authority's approval of the Redevelopment Plan; for the City,

EXHIBIT "C"

		following passage of the ordinance adopting the Redevelopment Plan
13. Execution of DDA	Authority/TIE	5 Days after approval by Authority and City and effective date of Ordinance approving Redevelopment Plan
14. Submittal of Schematic Design Documents for Phase I Waterside Improvements	TIE	
15. Submittal of Design Development Documents for Phase I Waterside Improvements	TIE	
16. Submittal of Final Construction Documents for Phase I Waterside Improvements	TIE	
17. Submittal of Job Broker Agreement with TIHDI for Phase I Waterside Improvements (§III.C, p.7 of Term Sheet)	TIE	
18. Submittal and approval and deposit of management agreement with Almar (§III.C, pp.7 & 8 of Term Sheet)	TIE	
19. Authority approval of construction documents for Phase I Waterside Improvements (§III.C, p.8 of Term Sheet)	Authoritiy	
20. Payment of Holding Rent and any DDA Extension Fees (§III.C, p.8 of Term Sheet)	TIE	
21. Obtain Building and Site permits and any other regulatory approvals from City for Phase I Waterside Improvements (§III.C, p.8 of Term Sheet)	TIE	
22. Obtain all other regulatory approvals for Phase I Waterside Improvements - e.g., BCDC, Army Corps of Engineers, DTSC, Regional Water Quality Control Board (§III.C, p.8 of Term Sheet)	TIE	
23. Preparation and recording of Final Subdivision Map for Ground Lease Premises	TIE/TIDA	
24. Submit evidence of financing for completion of all of Phase I Waterside Improvements (§III.C, p.8 of Term Sheet)	TIE	
25. Submit stipulated sum or guaranteed maximum price construction contract for Phase I Waterside Improvements (§III.C, p.8 of Term Sheet)	TIE	
26. Deposit into escrow all required insurance into escrow for Phase I Waterside Improvements (§III.C, p.8 of	TIE	

EXHIBIT "C"

Term Sheet)		
27. Deposit into escrow OA 3 LLC guarantee (§III.C, p.8 of Term Sheet)	TIE	
28. Close escrow on lease of Phase I Premises (§III.C, pp.7 & 10 of Term Sheet)	TIE/Authority	Within 12 mos of DDA and upon satisfaction of all conditions precedent shown in ##14 thru 27 above.
29. Commencement of Construction of Phase I Waterside Improvements	TIE	
30. Completion of Construction of Phase I Waterside Improvements	TIE	Within 18 mos. of Close of Escrow on Phase I Ground Lease
31. a. Master Developer's completion of Basic Base Improvements b. TIE's written notice to perform Basic Base Improvements on Phase II property - only if Master Developer does not perform (§III.C, pp.8 & 9 of Term Sheet)	Master Developer TIE	5 years following execution of DDA 90 days after end of 5 yrs from execution of DDA. ("Phase II Trigger Date")
32. Submittal of Schematic Design Documents for Phase II Landside Improvements	TIE	
33. Submittal of Design Development Documents for Phase II Landside Improvements	TIE	
34. Submittal of Final Construction Documents for Phase II Landside Improvements	TIE	
35. Submittal of Job Broker Agreement with TIHDI for Phase II Landside Improvements (§III.C, p.9 of Term Sheet)	TIE	
36. Submittal and approval and deposit of management agreement with restaurant manager or sublessee (§III.C, p.9 of Term Sheet)	TIE	
37. Deposit full amount of Infrastructure Advance, if applicable (§III.C, p.9 of Term Sheet)	TIE	
38. Completion of Phase I Waterside Improvements and no defaults in DDA or Phase I Ground Lease	TIE	
39. Authority approval of construction documents for Phase II Landside Improvements (§III.C, p.9 of Term Sheet)	Authoritiy	
40. Obtain Building and Site permits and any other regulatory approvals from City for Phase II Landside Improvements (§III.C, p.9 of Term Sheet)	TIE	

EXHIBIT "C"

41. Obtain all other regulatory approvals for Phase II Landside Improvements - e.g., BCDC, Army Corps of Engineers, DTSC, Regional Water Quality Control Board (§III.C, p.9 of Term Sheet)	TIE	
42. Submit evidence of financing for completion of all of Phase II Landside Improvements (§III.C, p.9 of Term Sheet)	TIE	
43. Submit stipulated sum or guaranteed maximum price construction contract for Phase II Landside Improvements (§III.C, p.9 of Term Sheet)	TIE	
44. All required insurance and OA 3 LLC Guaranty still in place and effective as to Phase II Landside Improvements	TIE	
45. Close escrow on Phase II Ground Lease (§III.C, p.10 of Term Sheet)	TIE/Authority	Within 12 mos. Of Phase II Trigger Date and satisfaction of all conditions precedent set forth in ##32 thru 44 above
46. Commence Construction of Phase II Landside Improvements	TIE	
47. Complete Construction of Phase II Landside Improvements (§III.C, p.10 of Term Sheet)	TIE	Within 12 mos. of Close of Escrow for Phase II Ground Lease or 24 mos of Phase II Trigger Date

Exhibit D - Percentage Rent

Percentages of Gross Revenues
Exhibit D

Revenue Sources	Yr. 1-3 Percentage Rent	Yr. 4-5 Percentage Rent	Yr. 6+ Percentage Rent
Slip Rent / Dry Storage	5 %	10%	15%
Food Service	3.5%	3.5%	3.5%
Miscellaneous	5.0%	5.0%	5.0%

Notes

Minutes of Meeting
Treasure Island Development Authority
November 14, 2001

1. Call to Order: 1:08 PM
   Roll Call Present: William Fazande, Marcia Rosen, Claudine Cheng, Gerald Green, Susan Po-Rufino, Doug Wong
   Excused: John Elberling
2. Approval of Minutes: The minutes of the October 17, 2001 special meeting were approved unanimously with an amendment to correct a typo.
3. Communications: No new communications.
4. Executive Director's Report:
   Open Access – 1,500 athletes participated in the TI Triathlon, and BattleBots held an event in November. The Mayor's office continues to facilitate senior tours. Oracle Open World will be held in Bldg. 3 in December.
   Environmental Clean up: DTSC, TIHDI and the project office continue to work with the Navy to get TIHDI's units on-line.
   Short-term leases: There are no new short term leases.
   Bay Bride - Governor Davis visited the Island to meet with local mayor's, the CHP and others to discuss bridge issues.
   Community issues: Job Corps is having a pre-bid conference with operators for the convenience store
   Citizens Advisory Board: The November 15, 2001 meeting is cancelled.
   TIHDI: About 1,000 attended the community picnic hosted by TIHDI and others. The Childcare Center should be operational in about 6 months.
   Financial Report and Legislation /Hearings affecting TI: The Cooperative Agreement for $145,000 will be reviewed for approval by the Board of Supervisors. Staff is currently working with the city attorney's office regarding our budget and conflicts with the Tidelands Trust.
5. General Public Comment:
   Ruth Gravanis, Treasure Island Wetlands, states that the web site has not been regularly updated. She notes that the minutes just approved indicate she is a member of the CAB, which she is not.
6. Ongoing Business by Directors and New business by members: None.
7. Resolution authorizing a reduction in the dollar amount requested in a grant application to the California Technology Trade and Commerce Agency for a California Defense Adjustment Matching (CDAM) Grant.
   Stephen Proud, Deputy Director, reports that the CDAM grant is for seismic strengthening of the causeway connecting the two islands. We applied for two grants, one from the EDA and the CDAM grant. EDA awarded us $202,000, but we expect the project will cost between $335,000 and $340,000. We applied for the CDAM grant to make up the difference of about $135,000. This is a matching funds program, therefore the Authority would need to make up half of the amount. Previously there was a resolution authorizing our grant request of $135,000. This resolution reduces the amount to $67,500.
   Mr. Green asked where, from the Authority's budget, will matching funds come from. Mr. Proud states it will come out of the professional services line item in the budget.

   Mr. Fazande moved approval. Mr. Wong seconded. Approved 6-0

Items 8 through 10 will be presented together.

8. Resolution Approving the Second Amendment to the exclusive Negotiating Agreement with Treasure Island Enterprises Granting the Executive Director of the Authority to Extend the Term of the Agreement.
9. Resolution Approving the First Amendment to the Interim Sublease with Treasure Island Enterprises to Provision Regarding Repair and Maintenance Work, Improvement Allowance, and Books, Records and Reports.
10. Resolution Approving the Term Sheet for the Disposition and Development Agreement and Groundlease Between the Treasure Island Development Authority and Treasure Island Enterprises for the Redevelopment of the Treasure Island Marina at Clipper Cove.

Mr. Proud states that in January 1998, the Authority issued a RFP for development of a new marina developer at Clipper Cove and received 3 responses. On February 17, 1999, the Authority authorized staff to prepare an Exclusive Negotiating Agreement (ENA) with Treasure Island Enterprises (TIE). For Item 8, staff seeks an extension to the deadline set forth in the ENA as there is a delay in the Authortiy acquiring the property. There are issues with environmental remediation that have not been resolved with the Navy. The extension is for an additional 18 months to complete the property transfer.

In September of 1999, staff set up an interim operating agreement with TIE to run the Marina. TIE agreed to make basic improvements for which they would receive rent credits. Item 9 would increase the improvement allowance to $368,200. The increased allowance will allow TIE to make improvements to expand the life of the Marina. Also, we would waive the annual report requirement in favor of quarterly reports from TIE and eliminate the berthing list requirement. We still have audit authority. All other provisions of the interim sublease remain.

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Mr. Proud states that the ground lease is a twenty-five year term with options to extend for another 40 years. The rent is the greater of the base rent or the percentage rent. The base rent starts at $100,000/year and escalates by CPI at various intervals and a security deposit of $200,000. Percentage rent is a percentage of revenues generated by the Marina. Rent credits will be used to offset some public improvements. TIE is solely responsible for management expenses.

Mr. Wong asks Mr. Proud to go over participation in the sale or refinance of the project. Mr. Proud states that we feel that since the Authority is offering rent credits, if they sold the project the Authority would share in the proceeds up to the amount of credit given plus interest. If proceeds come out of the project, we want to share in them.

Mr. Cohen states that percentage rent is a form of participation. By giving rent credits, we are participating. that is the Authority's investment in this venture.
Ms. Rosen asks if we would have any control over the rents that they will charge.

Mr. Proud states that after they had made the improvements, TIE would be allowed to raise the rents to a preset level, we set a maximum at $5.50/linear foot. At some point after that they would be able to raise the rent to market rates for a marina of comparable quality.

Jay Wallace, TIE, states it has been a privilege working with TIDA on this project.
Ms. Gravanis wonders why this was not presented to the CAB and why it does not address the public transportation issue.
Mr. Green states that we want to provide staff with as much flexibility as possible and we would not do anything without public input in the appropriate setting.

Item 8. Rosen moves approval. Cheng seconded. Approved 6-0
Item 9. Fazande moves approval. Cheng seconded. Approved 6-0
Item 10. Fazande moved approval. Po-Rufino seconded. Approved 6-0

Ms. Cheng asked for an update on the timeline of the focused Request for Proposal (RFP). Mr. Green asked to return to Item 6 on the Agenda to accommodate Ms. Cheng's request.
Mr. Proud states that staff will provide an update at the next meeting.

Mr. Fazande asked about the upcoming election for the TIDA Board.

Donnell Choy states that in December, members of the Board will submit their nominations to the Executive Director, who will then notify those nominees to give them an opportunity to withdraw. Ms. Conroy suggests having the nominations in by December 3. The elections will be at the December 12 meeting.

11. Adjourn 2:23

OFFICE OF THE MAYOR
SAN FRANCISCO

TREASURE ISLAND PROJECT
410 AVENUE OF THE PALMS
BUILDING 1, 2ND FLOOR
TREASURE ISLAND
SAN FRANCISCO, CA 94130
(415) 274-0660
FAX (415) 274-0299

WILLIE LEWIS BROWN, JR.

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TREASURE ISLAND DEVELOPMENT AUTHORITY
MEETING AGENDA
Wednesday, December 12, 2001 1 P.M.

Room 400, City Hall
1 Dr. Carlton Goodlett Place

Willie L. Brown, Jr., Mayor

DIRECTORS

John Elberling, Vice-Chairman
William Fazande
Marcia Rosen
Claudine Cheng
Gerald Green
Susan Po-Rufino
Doug Wong

Annemarie Conroy, Executive Director
London Breed, Commission Secretary

ORDER OF BUSINESS

1. Call to Order and Roll Call
2. Approval of Minutes (*Action Item*)
3. Communications (*Discussion Item*)
4. Report of the Treasure Island Project by Executive Director Annemarie Conroy (*Discussion Item*)
   - Report on access to Treasure Island including public use last month
   - Status of environmental clean up
   - Report on short-term leases
   - Report on San Francisco-Oakland Bay Bridge/Caltrans issues
   - Report on Treasure Island community issues
   - Report on Citizens Advisory Board
   - Report on TIHDI
   - Financial Report
   - Legislation/hearings affecting Treasure Island
   - Request for Proposal Report
5. General Public Comment (*Discussion Item*)
6. Ongoing Business by Directors and Introduction of New Business by members *(Discussion Item)*
7. Resolution authorizing the Executive Director to amend the Sublease with the Treasure Island Sailing Center for an additional two-year term *(Action Item)*
8. Election of Officers for the Treasure Island Development Authority Board *(Action Item)*
9. Adjourn

Relevant documents such as resolutions, staff summaries, leases, subleases are available at the Treasure Island Project Office and the Government Information Center at the Main Library, 100 Larkin Street. Public comment is taken on each item on the agenda.

MEETING AGENDAS NOW AVAILBLE ON E-MAIL

If you would like to receive TIDA meeting agendas by e-mail, rather than through U.S Postal Service mail, please send your name and e-mail address to TIDA@ci.sf.ca.us.

Disability Access

The Treasure Island Development Authority will meet at City Hall, 1 Dr. Carlton Goodlett Place. City Hall is accessible to persons using wheelchairs, and others with disabilities. For American Sign Language interpreters or use of a reader during a meeting, a sound enhancement system, and/or alternative formats of the agenda and minutes, please telephone 554-6789 at least 72 hours before a meeting.

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illnesses, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City accommodate these individuals.

The closest accessible BART is Civic Center, three blocks from the City Hall at the intersection of Market, Grove and Hyde Streets. Accessible MUNI lines serving this location are: #42 Downtown Loop, 9 San Bruno and the #71 Haight/Noriega. Accessible Muni Metro lines are J, K, L, M and N stopping at the Muni Metro Civic Center Station at Market and Van Ness. For more information about MUNI accessible services, call 923-6142. Accessible curbside parking is available on Grove Street.

TREASURE ISLAND WEBSITE

Check out the Treasure Island website at www.ci.sf.ca.us/treasureisland to find out about activities and facilities on Treasure Island, special events venues for rent, or to review the Treasure Island Development Authority's agendas and minutes.

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AGENDA ITEM

Treasure Island Development Authority
City and County of San Francisco

Subject: Resolution Authorizing the Executive Director to Amend a Sublease with the Treasure Island Sailing Center for an Additional Two-year Term.

Agenda No: 7

Contact Person/Phone: Stephen Proud
Marianne Conarroe
(415) 274-0660

Meeting Date: 12/12//2001

SUMMARY OF PROPOSED ACTION:

Staff is requesting the Authority adopt a resolution which would authorize the Executive Director to amend the sublease between the Authority and the Treasure Island Sailing Center for Pier 12 and adjacent areas.

BACKGROUND

In November 1999, the Authority approved of a two-year sublease with the San Francisco Sailing Center Foundation for the purpose of hosting the United States Olympic Sailing Pre-Trials at Pier 12 on Treasure Island's south waterfront area, and to provide sail instruction to underprivileged San Francisco Youth.

Over the term of the initial sublease, the focus of the Sailing Center has changed from being the successful host site for the Olympics to an organization providing free sail instruction to not only underprivileged San Francisco youth, but to also many Bay Area youth. To reflect the new focus on free sail instruction, the Center changed its name from the San Francisco Sailing Center Foundation to the Treasure Island Sailing Center Foundation.

Last summer more than 250 kids participated in the opportunity to learn how to sail at Treasure Island. Some of the organizations participating in the sail instruction program include the Columbia Park Boys and Girls Club, the Richmond Boys and Girls Club, Life Learning Academy, Treasure Island Homeless Development Initiative (TIDHI), the YMCA, San Francisco Recreation and Park Summer Sail Program, and the Girl Scouts of America. In addition to the sail instruction programs, the Sailing Center has been the host site for a variety of national events such as the NCAA Sailing for the Cal Berkeley Sail Team and many of the Pacific Coast Collegiate Regattas. Pending the approval of the amendments to the sublease by the Authority, the Sailing Center will serve as the host site for the High School Nationals in the Spring of 2002.

Staff has been working with the Sailing Center and Treasure Island Enterprises (TIE) to include the Center in the long-term redevelopment plans for the Marina. As a result, there is a tentative agreement between the two parties for such an arrangement.

The following is a brief description of the proposed changes to the Sublease for the Authority's approval:

- *Permitted Use*: The use provisions have been amended to reflect the new focus of the Sailing Center. They include:

  - The primary focus will be on continuing to provide free sail instruction to underprivileged San Francisco youth.

  - Limited dry boat storage to support the operation and activities of the sailing center.

- *Term:* The amended sublease would extend the term for an additional two years.

- *Rent:* The premises would be made available to the Sailing Center on a no-cost basis . The Authority would continue to collect a monthly CAM charge of $100.00. All other costs associated with the property (including, but mot limited to utilities, landscaping, taxes, trash collection, etc) are the responsibility of the Sailing Center.

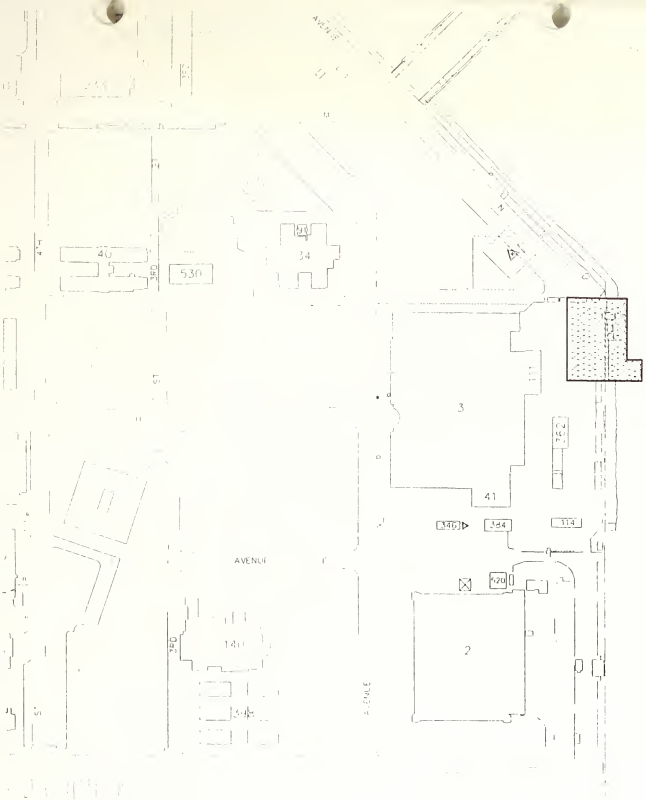
- *Security Deposit:* The $5,000 security deposit paid by the Sailing Center in 1999 will be retained and applied to the new Sublease.

- *Improvements:* In addition to the improvements required to correct code deficiencies, the Sailing Center may make additional improvements to the facility, subject to approval of the Authority, which will not be reasonably withheld. Any permits or other authorization required to make such improvements will be the responsibility of the Sailing Center. Based on discussions with the Sailing Center, additional improvements may include the installation of a water line to accommodate a shower and toilet facility, a ramp to launch small boats on the south east corner of the facility, and the removal of a concrete structure located in the middle of the facility.

It is important to note the sublease executed in 1999 included provisions designed to address code deficiencies at the facility identified by the Department of Building Inspection (DBI). In exchange for making those improvements, the Sailing Center would receive rent credits to a maximum of $60,000. To date, the Sailing Center has completed most of the improvements identified by DBI; however, the dollar amount for those improvements has not reached the $60,000 threshold. As a result, if the amendments to the sublease are approved, the Authority will carry forward an outstanding balance due that can be reduced by additional improvements to the facility (such as those identified above).

Recommendation

Staff recommends approval of the proposed amendments to the sublease.



Premises Map for

San Francisco Sailing Center

[Sublease for San Francisco Sailing Center]

AUTHORIZING THE EXECUTIVE DIRECTOR TO AMEND THE SUBLEASE WITH THE TREASURE ISLAND SAILING CENTER FOUNDATION FOR AN ADDITIONAL TWO-YEAR TERM.

WHEREAS, On May 2, 1997, the Board of Supervisors (the "Board") passed Resolution No. 380-97, authorizing the Mayor's Treasure Island Project Office to establish a nonprofit public benefit corporation known as the Treasure Island Development Authority (the "Authority") to act as a single entity focused on the planning, redevelopment, reconstruction, rehabilitation, reuse and conversion of former Naval Station Treasure Island (the "Base") for the public interest, convenience, welfare and common benefit of the inhabitants of the City and County of San Francisco; and,

WHEREAS, Under the Treasure Island Conversion Act of 1997, which amended Section 33492.5 of the California Health and Safety Code and added Section 2.1 to Chapter 1333 of the Statutes of 1968 (the "Act"), the California legislature (i) designated the Authority as a redevelopment agency under California redevelopment law with authority over the Base upon approval of the City's Board of Supervisors, and, (ii) with respect to those portions of the Base which are subject to the Tidelands Trust, vested in the Authority the authority to administer the public trust for commerce, navigation and fisheries as to such property; and,

WHEREAS, The Tidelands Trust prohibits the sale of trust property into private ownership, generally requires that Tidelands Trust property be accessible to the public and encourages public-oriented uses of trust property that, among other things, attract people to the waterfront, promote public recreation, protect habitat and preserve open space; and,

WHEREAS, In order to facilitate productive reuse and job creation on the Base, it may be beneficial for the Authority to lease or license property from the Navy and, in turn, sublease or sublicense such property to third-parties or use such property for municipal purposes; and,

WHEREAS, At its November 10, 1999 meeting, the Authority approved a resolution authorizing the execution of a sublease issued to the San Francisco Sailing Center to allow the Sailing Center to use Pier 12 and adjacent area on Treasure Island (the "Premises") for an Olympic training facility and for a sail instruction to San Francisco underprivileged youth; and

WHEREAS, the Authority staff and Subtenant have negotiated the terms and conditions of a sublease for a maximum term of two years substantially in the form attached hereto as Exhibit A (the "Sublease"); and,

WHEREAS, This sublease is a made available on a no-cost basis except for the monthly CAM charge; and

WHEREAS, Under the Sublease, Subtenant is granted the right to use the Premises for the hosting of sailing competitions and; the operation of sailing programs to teach sailing to underprivileged youth groups in San Francisco; to store boats to support the operation and activities of the sailing center; and to provide use of the facilities to Treasure Isle Marina for the launching of boats in dry-stack storage; Now, therefore, be it

RESOLVED, That the Authority hereby approves and authorizes the Executive Director to enter amend the Sublease with Subtenant for an additional Two-year term; and, be it

FURTHER RESOLVED, That the Authority authorizes the Executive Director to enter into modifications to the Sublease (including, without limitation, the attachment or modification of exhibits) that are in the best interests of the Authority and the City, do not materially change the terms of the Sublease, and are necessary and advisable to effectuate the purpose and intent of this resolution.

CERTIFICATE OF SECRETARY

I hereby certify that I am the duly elected and acting Secretary of the Treasure Island Development Authority, a California nonprofit public benefit corporation, and that the above Resolution was duly adopted and approved by the Board of Directors of the Authority at a properly noticed meeting on December 12, 2001.

_____

John Elberling, Secretary

INTERIM SUBLEASE

between

THE TREASURE ISLAND DEVELOPMENT AUTHORITY

as Sublandlord

and

TREASURE ISLAND SAILING CENTER FOUNDATION
as Subtenant

For the Interim Sublease of

Piers 11 and 12 and other space at former Naval Station Treasure Island
San Francisco, California

December 12, 2001

TREASURE ISLAND SUBLEASE

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TREASURE ISLAND SUBLEASE

THIS SUBLEASE (the "Sublease"), dated as of December 12, 2001, is by and between the Treasure Island Development Authority ("Sublandlord") and the Treasure Island Sailing CenterFoundation, a California nonprofit public benefit corporation ("Subtenant"). From time to time, Sublandlord and Subtenant together shall be referred to herein as the "Parties".

This Sublease is made with reference to the following facts and circumstances:

A. The United States of America, acting by and through the Department of Navy ("Master Landlord") and Sublandlord entered into a South Waterfront Lease dated September 5, 1998 (the "South Waterfront Lease") for certain portions of that property commonly known as former Naval Station Treasure Island (the "Property"). The South Waterfront Lease is attached hereto as Exhibits A and is referred to herein as the "Master Lease". Under the Master Lease, the Master Landlord leased to Sublandlord, among other things, that property commonly known as Pier 11 and Pier 12 consisting of (a) approximately 15,000 square feet of surface area with three small wood-framed structures located thereon, (b) approximately 2,500 square feet of water surface area located at Piers 11 and 12, and (c) approximately 15,000 square feet of paved surface area (collectively referred to as the "Premises") all as depicted in Exhibit B, attached hereto and incorporated herein.

B. On November 1, 1999, the Sublandlord entered into a sublease of the Premises (the "1999 Sublease") with the San Francisco Sailing Center Foundation (the "Foundation"). The Foundation has reorganized and changed its name to the Treasure Island Sailing Center. The 1999 Sublease has expired, and Subtenant has assumed the Foundation's obligations under the 1999 Sublease and continued to use and occupy the Premises on a hold-over, month-to-month basis.

C. Sublandlord is currently in exclusive negotiations with Treasure Island Enterprises ("TIE") for the redevelopment and expansion of the Treasure Island Marina, including the Premises. Nevertheless, Subtenant wishes to enter into a sublease of the Premises with Sublandlord as set forth hereinbelow.

NOW THEREFORE, Sublandlord and Subtenant hereby agree as follows:

1. PREMISES

1.1. Subleased Premises. Subject to the terms, covenants and conditions of this Sublease, Sublandlord subleases to Subtenant the Premises, including the improvements thereon.

1.2. As Is Condition of Premises.

(a) Inspection of Premises. Subtenant represents and warrants that Subtenant has conducted a thorough and diligent inspection and investigation, either independently or

through its officers, directors, employees, agents, affiliates, subsidiaries, licensees and contractors , and their respective heirs, legal representatives, successors and assigns, and each of them, ("Subtenant's Agents") of the Premises and the suitability of the Premises for Subtenant's intended use. Subtenant is fully aware of the needs of its operations and has determined, based solely on its own investigation, that the Premises are useable for its operations and intended uses. As part of its inspection of the Premises, Subtenant acknowledges its receipt and review of the Seismic Report referenced in Section 1.2(c) below and the Joint Inspection Report referenced in Section 6 of the Master Lease.

(b) As Is; Disclaimer of Representations. Subtenant acknowledges and agrees that the Premises are being subleased and accepted in their "AS IS, WITH ALL FAULTS" condition, without representation or warranty of any kind, and subject to all applicable laws, statutes, ordinances, resolutions, regulations, proclamations, orders or decrees of any municipal, county, state or federal government or other governmental or regulatory authority with jurisdiction over the Premises, or any portion thereof, whether currently in effect or adopted in the future and whether or not in the contemplation of the Parties, including without limitation the orders and citations of any regulatory authority with jurisdiction over life and safety issues concerning the Premises governing the use, occupancy, management, operation and possession of the Premises (together, "Laws"). Without limiting the foregoing, this Sublease is made subject to any and all covenants, conditions, restrictions, easements and other title matters affecting the Premises, or any portion thereof, whether or not of record. Subtenant acknowledges and agrees that neither Sublandlord nor any of its officers, directors, employees, agents, affiliates, subsidiaries, licensees and contractors , and their respective heirs, legal representatives, successors and assigns ("Sublandlord's Agents") have made, and Sublandlord hereby disclaims, any representations or warranties, express or implied, concerning (i) title or survey matters affecting the Premises, (ii) the physical, geological, seismological or environmental condition of the Premises, including, without limitation, the matters described in the Seismic Report (as defined below) (iii) the quality, nature or adequacy of any utilities serving the Premises, (iv) the feasibility, cost or legality of constructing any Alterations on the Premises if required for Subtenant's use and permitted under this Sublease, (v) the safety of the Premises, whether for the use of Subtenant or any other person, including Subtenant's Agents or Subtenant's clients, customers, vendors, invitees, guests, members, licensees, assignees or sub-subtenants ("Subtenant's Invitees"), or (vi) any other matter whatsoever relating to the Premises or their use, including, without limitation, any implied warranties of merchantability or fitness for a particular purpose.

Notwithstanding the foregoing, Sublandlord warrants its authority to enter into this Sublease.

(c) Seismic Report and Structural Report. Without limiting Section 1.2 (b) above, Subtenant expressly acknowledges for itself and Subtenant's Agents that it received and read that certain report dated August 1995, entitled "*Treasure Island Reuse Plan: Physical Characteristics, Building and Infrastructure Conditions,*" prepared for the Office of Military Base Conversion, Department of City Planning, and the Redevelopment Agency of the City and County of San Francisco, (the "Seismic Report"), a copy of the cover page of which is attached hereto as Exhibit C. Subtenant has had an adequate opportunity to review the Seismic Report with expert consultants of its own choosing. The Seismic Report, among other matters, describes

the conditions of the soils and points out that in the area of the Property where the Premises are located, an earthquake of magnitude 7 or greater is likely to cause the ground under and around the Premises to spread laterally to a distance of ten (10) or more feet and/or result in other risks. In that event, there is a significant risk that structures or improvements located on or about the Premises, may fail structurally and collapse.

2. COMPLIANCE WITH MASTER LEASE

2.1. Compliance with Master Lease. Subtenant shall not do or permit to be done anything which would constitute a violation or a breach of any of the terms, conditions or provisions of the Master Lease or which would cause the Master Lease to be terminated or forfeited by virtue of any rights of termination reserved by or vested in the Master Landlord. Sublandlord acknowledges that Subtenant's activities permitted hereunder do not violate the terms of the Master Lease.

2.2. Automatic Termination. If the Master Lease terminates for any reason whatsoever, this Sublease shall automatically terminate and the Parties shall thereafter be relieved from all liabilities and obligations under this Sublease, except for liabilities and obligations which expressly survive termination of this Sublease. Subtenant acknowledges and agrees that it has reviewed the Master Lease, is aware of the circumstances upon which the Master Lease may be terminated and hereby assumes all risks associated with the automatic termination of this Sublease because of the termination of the Master Lease. The parties hereby acknowledge that the Master Lease is currently scheduled to terminate on September 3, 2002. Sublandlord hereby covenants to use good faith efforts to seek an extension of the Master Lease or other acquisition of the Premises from Master Landlord to enable the parties to complete the Term of this Sublease. Sublandlord further covenants to use good faith efforts to obtain Master Landlord's consent to this Sublease.

3. TERM

3.1. Term of Sublease. The Premises are subleased for a term (the "Term") commencing on December 12, 2001 or the Effective Date, whichever is later, (the "Commencement Date") and expiring on the earlier to occur of (i) Sublandlord's execution of a disposition and development agreement with TIE for the redevelopment and expansion of the Treasure Island Marina, including the Premises, or (ii) December 1, 2003.

3.2. Effective Date. This Sublease shall become effective on the date (the "Effective Date") upon which (i) the Parties hereto have duly executed and delivered this Sublease and (ii) Sublandlord's Board of Directors has approved this Sublease.

4. RENT

4.1. Base Rent. In consideration of the public services that Subtenant will use the Premises for, there shall be no Base Rent during the Term of this Sublease.

4.2. **Improvement Allowance**. Subtenant hereby acknkowledges and agrees that it has assumed the obligation of the Foundation to pay Sublandlord $_____ in back rent owed ("Back Rent") by the Foundation to Sublandlord under the 1999 Sublease. Subtenant shall be entitled to offset against its obligation to pay Back Rent an amount equal to Subtenant's actual costs of constructing the Required Improvements (as defined in Section 7.1 below), provided however in no event shall the amount of such offset exceed $_____ (the "Improvement Allowance"). Regardless of whether or not the Term of this Sublease is of sufficient length for Subtenant to fully off-set the Improvement Allowance against Base Rent, in no event shall Sublandlord be obligated to reimburse Subtenant for such Improvement Allowance (other than as an off-set against Base Rent) or extend the Term of this Sublease, and Subtenant shall solely bear the risk thereof.

(a) In order to determine the final amount of the Improvement Allowance, Subtenant shall provide Sublandlord with copies of (i) all invoices received by Subtenant in connection with the construction of the Required Improvements, (ii) satisfactory evidence of payment of such invoices, including unconditional lien waivers, if the work is subject to mechanics' liens or if such invoices have not been paid, conditional lien waivers, if applicable, all such lien waivers being in the form prescribed by California Civil Code Section 3262, if applicable, and (iii) such additional supporting data substantiating the costs of the Required Improvements as Sublandlord may reasonably require, such as copies of requisitions from subcontractors and material suppliers.

4.3. **Additional Charges**. In addition to Base Rent, Subtenant shall pay any and all costs, impositions and expenses, or charges otherwise payable by Subtenant to Sublandlord hereunder, including, without limitation, a common area maintenance charge assessed against the Premises in the amount of $100.00 per month (the "CAM Charge"), all late charges and default interest and all utility charges (as set forth in Section 8.2 below) (together, the "Additional Charges"). The Additional Charges shall be payable without set-off or counterclaim, including, without limitation, the off-set for the Improvement Allowance described in Section 4.2 above. Within the time period that Subtenant submits Subtenant's Annual Review, as provided in Section 4.6(c) below, Sublandlord shall provide Subtenant a written summary of all Additional Charges actually incurred for the period covered by Subtenant's Annual Review. To the extent the CAM Charge or any other Additional Charges has been overpaid in any Sublease year, then Subtenant shall receive a credit against the next installment due of Additional Charges, and to the extent that CAM Charge or any other Additional Charges has been underpaid, Subtenant shall pay the additional amount due within 30 days of such annual reconciliation. The Additional Charges shall hereinafter be referred to as the "Rent".

4.4. **Late Charge**. If Subtenant fails to pay any Rent within ten (10) days after the date the same is due and payable, such unpaid amount will be subject to a late payment charge equal to six percent (6%) of the unpaid amount in each instance. The late payment charge has been agreed upon by Sublandlord and Subtenant, after negotiation, as a reasonable estimate of the additional administrative costs and detriment that Sublandlord will incur as a result of any such failure by Subtenant, the actual costs thereof being extremely difficult if not impossible to determine. The late payment charge constitutes liquidated damages to compensate Sublandlord

for its damages resulting from such failure to pay and Subtenant shall promptly pay such charge to Sublandlord together with such unpaid amount.

4.5. BOOKS, RECORDS AND REPORTS

(a) Books and Records. Subtenant shall establish and maintain books, records and systems of account reflecting all business operations of Subtenant transacted under this Sublease (the "Books and Records"). Subtenant shall maintain such Books and Records at a reasonably accessible location within California.

(b) Periodic Audits and Inspections of Records. After providing Subtenant with 72 hours prior written notice and only during regular business hours, the Sublandlord, its representatives or an independent auditor may audit, examine and make excerpts, copies and transcripts from the Books and Records. The Sublandlord may perform such audit at any time and from time to time during the Term or for a period of three (3) years thereafter. The costs of any periodic audit shall be paid by the Sublandlord.

(c) Transfer of Records and Accounts. In the event of termination of this Sublease, Subtenant shall deliver copies of all Books and Records reasonably requested by the Sublandlord to Sublandlord within ten (10) days of such request.

5. TAXES, ASSESSMENTS AND OTHER EXPENSES

5.1. Taxes and Assessments, Licenses, Permit Fees and Liens.

(a) Payment Responsibility. During the Term of this Sublease, Subtenant shall pay any and all real and personal property taxes, including, but not limited to, possessory interest taxes, general and special assessments, excises, licenses, permit fees and other charges and impositions of every description levied on or assessed against the Premises, any improvements to the Premises (including the Required Improvements, prorated for Subtenant's use of the Premises), Subtenant's personal property, or Subtenant's use of the Premises. Subtenant shall make all such payments directly to the charging authority when due and payable and at least ten (10) days prior to delinquency, subject, however, to Subtenant's right to challenge or protest any of such levies or assessments. Notwithstanding the foregoing, Subtenant shall have the right, at Subtenant's sole cost and expense, to contest the validity of any tax, assessment, excess, license, permit fee or other charge or imposition provided that (i) Subtenant gives Sublandlord written notice of Subtenant's intention to do so at least 10 days prior to delinquency, (ii) Subtenant diligently prosecutes any such contest and at all times effectually stays or prevents any official or judicial foreclosure of the Sublease, and (iii) Subtenant pays any final judgments forcing any such tax, assessment, excise, permit fee or charge so contested. Sublandlord shall, if requested, cooperate with Subtenant at any such proceedings at Subtenant's expense. However, with respect to real property taxes and assessments levied on or assessed against the Premises for which Sublandlord receives the tax bill directly from the taxing authority, Subtenant shall reimburse Sublandlord for payment of such sums within twenty (20) days after demand.

(b) **Taxability of Possessory Interest.** Without limiting the foregoing, Subtenant recognizes that this Sublease may create a possessory interest subject to property taxation and that Subtenant may be subject to the payment of property taxes levied on such interest.

(c) **No Foreclosure of Liens**. Subtenant shall not allow or suffer a lien for any taxes payable by Subtenant hereunder to be imposed upon the Premises or upon any equipment or other property located thereon without discharging the same as soon as practicable, and in any event prior to foreclosure thereof.

(d) **Reporting Information**. Subtenant agrees to provide such information as Sublandlord may reasonably request to enable Sublandlord to comply with any possessory interest tax reporting requirements applicable to this Sublease.

(e) **Evidence of Payment**. Subtenant shall, upon Sublandlord's request, furnish to Sublandlord within ten (10) days after the date when any charges are due and payable, official receipts of the appropriate taxing authority or other evidence reasonably satisfactory to Sublandlord, evidencing payment thereof, subject to Subtenant's rights to protest and challenge.

5.2. Other Expenses. This is a "triple net" Sublease. Accordingly, except for the Improvement Allowance for the Required Improvements, Subtenant shall be solely responsible for any and all charges, costs and expenses related to its use, occupancy, operation or enjoyment of the Premises or any alterations permitted thereon, including, without limitation, the cost of any utilities (as set forth in Section 8.2 below), repairs, maintenance or services necessary for Subtenant's use.

6. USE; COVENANTS TO PROTECT PREMISES

6.1. Subtenant's Permitted Use. Subtenant may use the Premises as a recreational sailing center, with boat launches,; limited dry boat storage facilities; the hosting of sailing competitions and training related to the operation of a program(s) for teaching sailing to San Francisco residents, with an emphasis on underprivileged youth groups in San Francisco. No sale of tobacco or tobacco-related products or alcohol shall be permitted. Subtenant may not use the Premises, or any portion thereof, for any other purposes.

6.2. Parking and Other Uses of Parking Area. Subtenant may allow the parking only of boats and boat trailers and other vehicles used for sailing center events in that portion of the Premises designated as the "Parking Area" on Exhibit B. Such parking in the Parking Area shall be shared with the user or users of Building 3 of the Property.

6.3. Easements. This Sublease shall be subject to all outstanding easements and rights-of-way for location of any type of facility over, across, in, and upon the Premises or any portion thereof, and to the right of Master Landlord under the Master Lease to grant such additional easements and rights-of-way over, across, in and upon the Premises as Master Landlord shall determine to be in the public interest ("Additional Easements"), provided that, as provided in Section 29 of the Master Lease, Master Landlord shall use its best efforts to minimize any

interference with Subtenant's operations hereunder caused by the granting of any such Additional Easements and the granting of such Additional Easements shall be conditioned on the assumption by the grantee thereof of liability to Subtenant for such damages as Subtenant shall suffer for property destroyed or property rendered unusable on account of the grantee's exercise of its rights thereunder. There is hereby reserved to the holders of such Additional Easements as are presently outstanding or which may hereafter be granted, to any workers officially engaged in the construction, installation, maintenance, operation, repair or replacement of facilities located thereon, and to any federal, state or local official engaged in the official inspection thereof, such reasonable rights of ingress and egress over the Premises as shall be necessary for the performance of their duties with regard to such facilities. Sublandlord is not aware of any Additional Easements or other encumbrances which would interfere with Subtenant's use of the Premises. Provided, however, that if the exercise by Master Landlord of any of such rights shall effectively deprive Subtenant of the use of all or such a significant portion of the Premises as to render the remaining portion of the Premises untenantable or unsuitable for continued use by Subtenant as contemplated under this Sublease for more than thirty (30) days, then Subtenant may terminate this Sublease upon thirty (30) days notice, subject to the surrender provisions of Section 18.2 below. If the Master Landlord exercises any of such rights in a manner and under circumstances where this Sublease is not terminated as set forth above, then Base Rent shall be reduced by an amount that is in the same ratio to the Base Rent as the area of the Premises deprived from Subtenant by Master Landlord bears to the area of the Premises prior to Master Landlord's exercise of its rights.

6.4. No Interference with Navy Operations. Subtenant shall not conduct operations, nor make any Alterations (as defined below), that would interfere with or otherwise restrict Master Landlord's operations or environmental clean-up or restoration actions by the Master Landlord, Sublandlord, the Environmental Protection Agency, the State of California or their contractors. Environmental clean-up, restoration or testing activities by these Parties shall take priority over the Subtenant's use of the Premises in the event of any conflict, provided, however, in such event, Master Landlord and Sublandlord shall use their best efforts to minimize any disruption of Subtenant's operation.

6.5. No Unlawful Uses, Nuisances or Waste. Without limiting the foregoing, Subtenant shall not use, occupy or permit the use or occupancy of any of the Premises in any unlawful manner or for any illegal purpose, or permit any offensive, noisy or hazardous use or any waste on or about the Premises. Subtenant shall eliminate any nuisances or hazards caused by Subtenant or its Agents or Invitees on or about the Premises.

7. REQUIRED IMPROVEMENTS

7.1. Required Improvements. Subtenant is required to complete the required improvements as set forth in Exhibit D (hereafter, the "Required Improvements"). Subtenant shall be responsible for completing the Required Improvements in accordance with the procedures for constructing Alterations contained in Section 7.2 below, as applicable. Subject to events of Force Majuere (as defined below) Subtenant's failure to complete the Required Improvements by December 2003 shall constitute an Event of Default under this Sublease. Subtenant shall further be responsible for obtaining all permits and licenses required in connection with the Required

Improvements. Subtenant shall not make any material change to the plans and descriptions of the Required Improvements without first obtaining Sublandlord's written approval.

(a) For purposes of this Sublease, an event of "Force Majuere" shall mean any act, event or condition beyond the control of Subtenant or Subtenant's contractors, which act, event or condition materially affects the ability of the Subtenant to perform its obligations hereunder such as Subtenant's inability to obtain permits and licenses required for such work (notwithstanding Subtenant's best efforts to obtain such permits or licenses), strikes, lockouts, or other labor disturbances, fire, earthquake, flood, hurricane or other natural disaster, acts of God, war, or civil insurrection.

7.2. **Conduct of Work**. Except as may be reasonably required to maintain or repair the Premises or any improvements thereon or respond to emergencies, Subtenant shall not construct, install, make or permit to be made any alterations, installations or additions ("Alterations") in, to or about the Premises, without Sublandlord's prior written consent in each instance, which consent may given or withheld in Sublandlord's sole and absolute discretion, provided however, that no consent shall be required for the Required Improvements as set forth in Section 7.1 above. All Alterations shall be done at Subtenant's sole expense (i) in strict accordance with plans and specifications approved in advance by Sublandlord in writing, (ii) by duly licensed and bonded contractors or mechanics approved by Sublandlord or volunteers supervised by duly licensed and bonded contractors or mechanics approved by Sublandlord, (iii) in a good and professional manner, (iv) in strict compliance with all Laws, and (v) subject to all other conditions that Sublandlord may reasonably impose. In no event shall the construction , installation or the making of any Alterations substantially or permanently impair the use or operation of the Property, or any portion thereof, or Sublandlord's or Master Landlord's access thereto. Prior to the commencement of any work on the Premises to construct any permitted Alterations, Subtenant, at its sole expense, shall procure all required permits and approvals and shall promptly upon receipt deliver copies of all such documents to Sublandlord. No material change from the plans and specifications approved by Sublandlord may be made without Sublandlord's prior consent, which consent shall not be unreasonably withheld. Sublandlord and Sublandlord's Agents shall have the right to inspect the course of such construction at all reasonable times.

7.3. **Ownership of Alterations**. Any Alterations constructed on or affixed to the Premises by or on behalf of Subtenant pursuant to the terms and limitations of Section 7.2 above shall be and remain Subtenant's property during the Term. Upon the termination of this Sublease, Subtenant shall remove any Alterations (other than the Required Improvements) from the Premises in accordance with the provisions of Section 18 hereof if Sublandlord, at its sole option and without limiting any of the provisions of Section 7.2 above, requires as a condition to approval of any such Alterations or consented that such Alterations be removed from the Premises following the expiration or termination of this Sublease.

7.4. **Subtenant's Personal Property**. All furniture, furnishings and articles of movable personal property and equipment (such as the two jib cranes) installed in the Premises by or for the account of Subtenant that can be removed without structural or other material damage to the

Premises (all of which are herein called "Subtenant's Personal Property") shall be and remain the property of Subtenant and may be removed by it subject to the provisions of Section 18 hereof.

8. REPAIRS AND MAINTENANCE

8.1. Subtenant Responsible for Maintenance and Repair. Subtenant assumes full and sole responsibility for the condition, operation, repair and maintenance and management of the Premises, including without limitation, the maintenance and safety certification of the crane boat hoist on the Premises, from and after the Commencement Date. Sublandlord shall not be responsible for the performance of any repairs, changes or Alterations to the Premises, nor shall Sublandlord be liable for any portion of the cost thereof, except for repairs necessitated by Sublandlord's acts or omissions. Subtenant shall make all repairs, interior and exterior, structural as well as non-structural, ordinary as well as extraordinary, foreseen and unforeseen, which may be necessary to maintain the Premises at all times in as good a condition as will exist upon the satisfactory completion of the Required Improvements, and in a reasonably clean, safe, attractive and sanitary condition, excluding existing conditions not to be improved by the Required Improvements, ordinary wear and tear and damage caused by casualty. If any portion of the Premises is damaged by any activities conducted by Subtenant or Subtenant's Agents or Subtenant's Invitees hereunder, Subtenant shall promptly, at its sole cost, repair all such damage and restore the Premises to as good a condition as will exist upon the satisfactory completion of the Required Improvements. Subtenant shall obtain a written certification of safety for the crane boat hoist on the Premises from an inspector approved by Cal-OSHA at least once every six (6) months throughout the Term of this Sublease. Subtenant shall provide Sublandlord with a copy of each certification within five (5) business days after Subtenant receives such written certification.

8.2. Utilities. Sublandlord shall have no responsibility for providing any utilities and services to the Premises whatsoever. Subtenant shall be responsible for furnishing, at its sole costs, any utilities or services that Subtenant may need for its use of the Premises. Subtenant shall pay all amounts due and owing for such utilities and services directly to and at the rates charged by the providers of such utilities and services. Sublandlord shall cooperate with Subtenant in obtaining necessary rights of access for any utility hook-ups that Subtenant reasonably requests, provided that Sublandlord shall not be required to incur any cost or expense for any such cooperation.

8.3. Landscaping. Subtenant shall maintain the existing landscaping of the Premises, if any, in a good condition.

8.4. No Right to Repair and Deduct. Subtenant expressly waives the benefit of any existing or future Laws or judicial or administrative decision that would otherwise permit Subtenant to make repairs or replacements at Sublandlord's expense, or to terminate this Sublease because of Sublandlord's failure to keep the Premises or any part thereof in good order, condition or repair, or to abate or reduce any of Subtenant's obligations hereunder on account of the Premises or any part thereof being in need of repair or replacement. Without limiting the foregoing, Subtenant expressly waives the provisions of California Civil Code Sections 1932, 1941 and 1942 or any similar Laws with respect to any right of Subtenant to terminate this

Sublease and with respect to any obligations of Sublandlord hereunder or and any right of Subtenant to make repairs or replacements and deduct the cost thereof from Rent.

9. LIENS

Subtenant shall keep the Premises free from any liens arising out of any work performed, material furnished or obligations incurred by or for Subtenant. In the event Subtenant does not, within twenty (20) days following the imposition of any such lien, cause the lien to be released of record by payment or posting of a proper bond, Sublandlord shall have in addition to all other remedies provided herein and by law or equity the right, but not the obligation, to cause the same to be released by such means as it shall deem proper, including, but not limited to, payment of the claim giving rise to such lien. All such sums paid by Sublandlord and all expenses it incurs in connection therewith (including, without limitation, reasonable attorneys' fees) shall be payable to Sublandlord as Additional Charges by Subtenant upon demand. Sublandlord shall have the right at all times to post and keep posted on the Premises any notices permitted or required by law or that Sublandlord deems proper for its protection and protection of the Premises from mechanics' and materialmen's liens. Subtenant shall give Sublandlord at least fifteen (15) days' prior written notice of the commencement of any repair or construction on any of the Premises other than the Required Improvements.

10. COMPLIANCE WITH LAWS

10.1. Compliance with Laws. Subtenant shall promptly, at its sole expense, maintain the Premises and Subtenant's use and operations thereon in strict compliance at all times with all present and future Laws, including, without limitation, all Laws relating to health and safety, San Francisco Bay or shoreline use, and disabled accessibility (such as the Americans with Disabilities Act, 42 U.S.C.S. §§ 12101 et seq. and Title 24 of the California Code of Regulations), to the extent applicable whether foreseen or unforeseen, ordinary as well as extraordinary, provided, however, that Subtenant shall not be required to make any Alterations other than Alterations, if any, included in the Required Improvements in order to comply with such Laws unless such Alterations shall be occasioned by the Required Improvements or any other Alterations, or Subtenant's use of the Premises, or any act or omission of Subtenant, its Agents or Invitees. Notwithstanding the foregoing, no occurrence or situation arising during the term, nor any present or future Law, whether foreseen or unforeseen, and however extraordinary, shall give Subtenant any right to seek redress against Sublandlord for failing to comply with any Laws. Subtenant waives any rights now or hereafter conferred upon it by any existing or future Law to compel Sublandlord to make any repairs to comply with any such Laws, on account of any such occurrence or situation.

10.2. Regulatory Approvals.

(a) Responsible Party. Subtenant understands and agrees that Subtenant's use of the Premises and construction of Alterations permitted hereunder (including the Required Improvements) may require authorizations, approvals or permits from governmental regulatory agencies with jurisdiction over the Premises. To the extent such approvals or permits are required, Subtenant shall be solely responsible for obtaining any and all such regulatory approvals.

Except in the case of the Required Improvements, Subtenant shall not seek any regulatory approval without first obtaining the written consent of Sublandlord, which consent shall not be unreasonably withheld. Subtenant shall bear all costs associated with applying for, obtaining and maintaining any necessary or appropriate regulatory approval and shall be solely responsible for satisfying any and all conditions imposed by regulatory agencies as part of a regulatory approval. Any fines or penalties levied as a result of Subtenant's failure to comply with the terms and conditions of any regulatory approval shall be timely and promptly paid and discharged by Subtenant, and Sublandlord shall have no liability, monetary or otherwise, for any such fines or penalties. Subtenant shall indemnify, protect, defend and hold harmless forever ("Indemnify") the Sublandlord and the Master Landlord including, but not limited to, all of their respective officers, directors, employees , agents, affiliates, subsidiaries, licensees, contractors, boards, commissions, departments, agencies and other subdivisions and each of the persons acting by, through or under each of them, and their respective heirs, legal representatives, successors and assigns, and each of them (the "Indemnified Parties") against any and all claims, demands, losses, liabilities, damages, liens, injuries, penalties, fines, lawsuits and other proceedings, judgments and awards and costs and expenses, including, without limitation, reasonable attorneys' and consultants' fees and costs ("Losses") arising in connection with Subtenant's failure to obtain or comply with the terms and conditions of any regulatory approval, except to the extent such Losses are caused by Sublandlord's negligence or willful misconduct. Sublandlord shall reasonably cooperate with Subtenant to the extent such cooperation is necessary for Subtenant to fulfill its obligations under this Section 10.2.

(b) Authority Acting in Proprietary Capacity. Subtenant further understands and agrees that Sublandlord is entering into this Sublease in its capacity as a property owner with a proprietary interest in the Premises and not as a regulatory agency with police powers. Nothing in this Sublease shall limit in any way Subtenant's obligation to obtain any required approvals from city officials, departments, boards or commissions having jurisdiction over the Premises. By entering into this Sublease, Sublandlord is in no way modifying or limiting Subtenant's obligation to cause the Premises to be used and occupied in accordance with all applicable laws, as provided further above.

10.3. Compliance with Sublandlord's Risk Management Requirements. Subtenant shall not do anything, or permit anything to be done, in or about the Premises or any Alterations permitted hereunder that would create any unusual fire risk, and shall take commercially reasonable steps to protect Sublandlord from any potential premises liability. Subtenant shall faithfully observe, at its expense, any and all reasonable requirements of Sublandlord's Risk Manager with respect thereto and with the requirements of any policies of commercial general, all risk property or other policies of insurance at any time in force with respect to the Premises and any Alterations as required hereunder.

11. ENCUMBRANCES

11.1. Encumbrance By Subtenant. Without the prior written consent of Sublandlord, which consent Sublandlord may withhold in Sublandlord's sole and absolute discretion, Subtenant shall not under any circumstances whatsoever create any mortgage, deed of trust, assignment of rents, fixture filing, security agreement, or similar security instrument, or other lien or

encumbrance or assignment or pledge of an asset as security in any manner against the Premises or Sublandlord's or Subtenant's interest under this Sublease.

12. DAMAGE OR DESTRUCTION

12.1. Damage or Destruction to the Premises Covered by Required Insurance. In the case of damage to or destruction of all or any portion of the Premises that materially adversely affects the intended use of such Premises hereunder ("Damage") that is covered by the insurance required under Section 16 below (the "Required Insurance") this Agreement shall continue and Subtenant shall use the proceeds of any such Required Insurance to, with reasonable promptness and diligence, restore, repair, replace or rebuild those portions of the Premises so Damaged (the "Damaged Premises") to as good a condition, quality and class as the Damaged Premises were in immediately before such casualty ("Repair").

12.2. Damage or Destruction to the Premises Not Covered by required Insurance. In the case of Damage to the Premises that is not covered by the Required Insurance, then Subtenant may either (i) terminate this Sublease by giving written notice to Sublandlord of its election to do so within thirty (30) days after the date of the occurrence of such Damage (with the effective date of termination specified in the notice of termination, which date shall not be more than thirty (30) days from the date of the notice) subject to the surrender provisions of Section 18.2 below, (ii) Repair the Damage at its own cost, or (iii) close such Damage area of the Premises to Subtenant's Invitees (including its licensees) and members of the general public, provided that the closure of such Damage area of the Premises will not materially interfere with the use and operation of the remaining Premises, and provided further that in connection with such closure, Subtenant takes reasonable steps to secure such closed Damage area of the Premises to protect Subtenant's Invitees and the general public from any hazardous condition or attractive nuisance that may exist in such closed Damage area of the Premises. In the event Subtenant elects to Repair Damage to the Premises at its own cost under Section 12.2 (ii) above, the cost of such Repair may be added to the Improvement Allowance with the prior written consent of the Sublandlord. In the event that Subtenant elects to terminate this Sublease pursuant to this Section 12.2, Sublandlord shall be entitled to retain the Security Deposit referenced in Section 20._ below.

12.3. Waiver. The Parties understand and agree that the foregoing provisions of this Section 12 are intended to govern fully the rights and obligations of the Parties in the event of damage or destruction to the Premises or Alterations, and the Sublandlord and Subtenant each hereby waives and releases any right to terminate this Agreement in whole or in part under Sections 1932.2 and 1933.4 of the Civil Code of California or under any similar Laws now or hereafter in effect, to the extent such rights are inconsistent with the provisions hereof.

13. ASSIGNMENT AND SUBLETTING

13.1. Restriction on Assignment and Subletting. Subtenant shall not directly or indirectly (including, without limitation, by merger, acquisition or other transfer of any controlling interest in Subtenant), voluntarily or by operation of Law, sell, assign, encumber, pledge or

otherwise transfer any part of its interest in or rights with respect to the Premises, any Alterations or its interest in this Sublease, or permit any portion of the Premises to be occupied by anyone other than itself, its agents, employees, members, officers of members or representatives, or sublet any portion of the Premises, without Sublandlord's prior written consent in each instance, which Sublandlord may grant or withhold in its sole and absolute discretion.

14. DEFAULT; REMEDIES

14.1. Events of Default. Any of the following shall constitute an event of default ("Event of Default") by Subtenant hereunder:

(a) Rent. Any failure to pay Rent or other sums, including sums due for utilities, within ten (10) days after such sums are due, which is not cured within five (5) days after written notice thereof by Sublandlord.

(b) Covenants, Conditions and Representations. Any failure to perform or comply with any other covenant, condition or representation made under this Sublease, provided Subtenant shall have a period of thirty (30) days from the date of written notice from Sublandlord of such failure within which to cure such default under this Sublease, or, if such default is not capable of cure within such 30-day period, Subtenant shall have a reasonable period to complete such cure if Subtenant promptly commences action to cure such default within such 30-day period and thereafter diligently prosecutes the same to completion and uses its best efforts to complete such cure within sixty (60) days after the receipt of notice of default from Sublandlord.

(c) Vacation or Abandonment. Any abandonment of the Premises for more than fourteen (14) consecutive days, except in a case where such abandonment is caused by an Event of Force Majeure or by Damage or Destruction, as provided in Section 12 above; and

(d) Bankruptcy. Either (i) the filing by the Subtenant of a petition to have the Subtenant or any of its members adjudicated insolvent and unable to pay its debts as they mature or a petition for reorganization or arrangement under any bankruptcy or insolvency law, or a general assignment by the Subtenant or any of its members for the benefit of creditors, or (ii) the filing by or against the Subtenant or any of its members of any action seeking reorganization, arrangement, liquidation, or other relief under any law relating to bankruptcy, insolvency, or reorganization or seeking appointment of a trustee, receiver, or liquidator of the Subtenant or any substantial part of the Subtenant's assets, if such petition is not dismissed within sixty (60) days.

14.2. Remedies. Upon the occurrence of an Event of Default by Subtenant, Sublandlord shall have the following rights and remedies in addition to all other rights and remedies available to Sublandlord at Law or in equity:

(a) Terminate Sublease and Recover Damages. The rights and remedies provided by law California Civil Code Section 1951.2 (damages on termination for breach), including, but not limited to, the right to terminate Subtenant's right to possession of the Premises and to recover the worth at the time of award of the amount by which the unpaid Rent for the balance of the Term after the time of award exceeds the amount of rental loss for the same period

that Subtenant proves could be reasonably avoided, as computed pursuant to subsection (b) of such Section 1951.2. Sublandlord's efforts to mitigate the damages caused by Subtenant's breach of this Sublease shall not waive Sublandlord's rights to recover unmitigated damages upon termination.

(b) **Appointment of Receiver**. The right to have a receiver appointed for Subtenant upon application by Sublandlord to take possession of the Premises and to apply any rental collected from the Premises and to exercise all other rights and remedies granted to Sublandlord pursuant to this Sublease.

14.3. **Sublandlord's Right to Cure Subtenant's Defaults**. If Subtenant defaults in the performance of any of its obligations under this Sublease, then Sublandlord may at any time thereafter with five (5) days prior written notice (except in the event of an emergency as determined by Sublandlord where prior notice by Sublandlord is impractical), remedy such Event of Default for Subtenant's account and at Subtenant's expense. Subtenant shall pay to Sublandlord, as Additional Charges, promptly upon demand, all reasonable sums expended by Sublandlord, or other costs, damages, expenses or liabilities incurred by Sublandlord, including, without limitation, reasonable attorneys' fees, in remedying or attempting to remedy such Event of Default. Subtenant's obligations under this Section shall survive the termination of this Sublease. Nothing herein shall imply any duty of Sublandlord to do any act that Subtenant is obligated to perform under any provision of this Sublease, and Sublandlord's cure or attempted cure of Subtenant's Event of Default shall not constitute a waiver of Subtenant's Event of Default or any rights or remedies of Sublandlord on account of such Event of Default.

15. RELEASE AND WAIVER OF CLAIMS; INDEMNIFICATION

15.1. **Release and Waiver of Claims**. Subtenant, on behalf of itself and Subtenant's Agents, covenants and agrees that the Indemnified Parties shall not be responsible for or liable to Subtenant for, and, to the fullest extent allowed by any Laws, Subtenant hereby waives all rights against the Indemnified Parties and releases them from, any and all Losses, including, but not limited to, incidental and consequential damages, relating to any injury, accident or death of any person or loss or damage to any property, in or about the Premises, from any cause whatsoever, including without limitation, partial or complete collapse of the Premises due to an earthquake or subsidence, except only to the extent such Losses are caused by the negligence or willful misconduct of the Indemnified Parties. Without limiting the generality of the foregoing:

(a) Subtenant expressly acknowledges and agrees that the Rent payable hereunder does not take into account any potential liability of the Indemnified Parties for any consequential or incidental damages including, but not limited to, lost profits arising out of disruption to Subtenant's uses hereunder. Sublandlord would not be willing to enter into this Sublease in the absence of a complete waiver of liability for consequential or incidental damages due to the acts or omissions of the Indemnified Parties , and Subtenant expressly assumes the risk with respect thereto. Accordingly, without limiting any indemnification obligations of Subtenant or other waivers contained in this Sublease and as a material part of the consideration for this Sublease, Subtenant fully RELEASES, WAIVES AND DISCHARGES forever any and all claims, demands, rights, and causes of action for consequential and incidental damages and

uses authorized hereunder, including, without limitation, any interference with uses conducted by Subtenant pursuant to this Sublease regardless of the cause, except to the extent such Losses are caused by Sublandlord's negligence or willful misconduct.

(b) Without limiting any indemnification obligations of Subtenant or other waivers contained in this Sublease and as a material part of the consideration for this Sublease, Subtenant fully RELEASES, WAIVES AND DISCHARGES forever any claims for inverse condemnation or the payment of just compensation under the law of eminent domain, or otherwise at equity, in the event that Sublandlord terminates this Sublease because of such claim for inverse condemnation or eminent domain.

(c) As part of Subtenant's agreement to accept the Premises in its "As Is" condition as provided herein, and without limiting such agreement and any other waiver contained herein, Subtenant on behalf of itself and its successors and assigns, waives its right to recover from, and forever RELEASES , WAIVES AND DISCHARGES, the Indemnified Parties from any and all losses, whether direct or indirect, known or unknown, foreseen and unforeseen, that may arise on account of or in any way be connected with the physical or environmental condition of the Premises and any related improvements or any Laws or regulations applicable thereto or the suitability of the Premises for Subtenant's intended use, except to the extent such Losses are caused by the negligence or willful misconduct of the Indemnified Parties.

(d) Subtenant acknowledges that it will not be a displaced person at the time this Sublease is terminated, and Subtenant fully RELEASES, WAIVES AND DISCHARGES, the Indemnified Parties from any and all Losses and any and all claims, demands or rights against any of the Indemnified Parties under any present and future Laws, including, without limitation, any and all claims for relocation benefits or assistance from the Indemnified Parties under federal and state relocation assistance laws.

(e) Subtenant covenants and agrees never to file, commence, prosecute or cause to be filed, commenced or prosecuted against the Indemnified Parties any claim, action or proceeding based upon any claims, demands, causes of action, obligations, damages, losses, costs, expenses or liabilities of any nature whatsoever encompassed by the waivers and releases set forth in this Section 15.1, excepting those arising from the negligence or willful misconduct of the Indemnified Parties.

(f) In executing these waivers and releases, Subtenant has not relied upon any representation or statement other than as expressly set forth herein.

(g) Subtenant has made such investigation of the facts pertaining to these waivers and releases it deems necessary and assumes the risk of mistake with respect to such facts. These waivers and releases are intended to be final and binding on Subtenant regardless of any claims of mistake.

(h) In connection with the foregoing releases, Subtenant acknowledges that it is familiar with Section 1542 of the California Civil Code, which reads:

> **A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.**

Subtenant acknowledges that the releases contained herein includes all known and unknown, disclosed and undisclosed, and anticipated and unanticipated claims. Subtenant realizes and acknowledges that it has agreed upon this Sublease in light of this realization and, being fully aware of this situation, it nevertheless intends to waive the benefit of Civil Code Section 1542, or any statute or other similar law now or later in effect. The waivers and releases contained herein shall survive any termination of this Sublease.

(i) Nothing herein shall limit or otherwise relieve Master Landlord from Master Landlord's obligations under Master Landlord's environmental indemnity described in Section 19.3 below, the Federal Tort Claims Act, or any other applicable laws.

15.2. Subtenant's Indemnity. Except as otherwise provided in Section 19, Subtenant, on behalf of itself and Subtenant's Agents, shall Indemnify the Indemnified Parties from and against any and all Losses, incurred in connection with or arising out of Subtenant's use of the Premises, including, without limitation: (a) any damage to or destruction of any property owned by or in the custody of Subtenant or Subtenant's Agents or Invitees, (b) any accident, injury to or death of a person, including, without limitation, Subtenant's Agents and Invitees, occurring in, on or about the Premises (c) any default by Subtenant in the observation or performance of any of the terms, covenants or conditions of this Sublease to be observed or performed on Subtenant's part; (d) the use, occupancy, conduct or management, or manner of use, occupancy, conduct or management by Subtenant, Subtenant's Agents or Invitees or any person or entity claiming through or under any of them, of the Premises or any Alterations; (e) any construction or other work undertaken by Subtenant on or about the Premises whether before or during the Term of this Sublease; or (f) any acts, omissions or negligence of Subtenant, Subtenant's Agents or Invitees, or of any trespassers, in, on or about the Premises or any Alterations; except to the extent that such Indemnity is void or otherwise unenforceable under any applicable Laws in effect on or validly retroactive to the date of this Sublease and further except only to the extent such losses are caused by the negligence or intentional wrongful acts or omissions of the Indemnified Parties. The foregoing Indemnity shall include, without limitation, reasonable fees of attorneys, consultants and experts and related costs and Sublandlord's costs of investigating any loss. Subtenant specifically acknowledges and agrees that it has an immediate and independent obligation to defend Sublandlord and the other Indemnified Parties from any claim which actually or potentially falls within this indemnity provision even if such allegation is or may be groundless, fraudulent or false, which obligation arises at the time such claim is tendered to Subtenant by Sublandlord and continues at all times thereafter. Subtenant's obligations under this Section shall survive the expiration or sooner termination of this Sublease.

16. INSURANCE

16.1. **Subtenant's Insurance**. Subtenant shall procure and maintain or cause to be procured and maintained throughout the Term of this Sublease and pay the cost thereof the following insurance:

(a) **Property Insurance**. Subtenant shall procure and maintain, at its own cost, a standard fire and extended coverage property insurance policy insuring the Premises, including, without limitation, all fixtures, Alterations, furniture and equipment located thereon, in an amount not less than the full replacement value of the Premises.

(b) **Public Liability and Other Insurance**. Subtenant shall at all times, at its cost, also maintain insurance for the mutual benefit of Sublandlord and Subtenant against:

(i) Claims for personal injury under a policy of commercial general liability insurance, including without limitation, claims for bodily injury , property damage or employer's liability occurring in or upon the Premises, in an amount not less than $2,000,000 combined single limit. Such insurance shall provide coverage at least as broad as provided under Insurance Service Form Number CG-00-01-11-88.

(ii) Worker's compensation insurance with employer's liability insurance covering all persons employed and with respect to whom death or bodily injury claims could be asserted against Sublandlord, Subtenant, the Premises or any other Sublandlord property, in an amount not less than $1,000,000 each accident.

(iii) Automobile and watercraft liability insurance with limits not less than $1,000,000 each occurrence combined single limit for bodily injury and property damage, including owned and non-owned and hired vehicles, if Subtenant uses automobiles or watercraft in connection with its use of the Premises. Such insurance shall provide coverage at least as broad as provided under Insurance Service Form Number CA-00-01-06-92.

(iv) Marina Operator's legal Liability insurance with limits not less than $2,000,000 each occurrence for bodily injury or property damage arising out of Marina operations with a deductible not to exceed $50,000 per claim.

16.2. **General Requirements**. All insurance provided for under this Sublease shall be effected under valid enforceable policies issued by insurers of recognized responsibility and reasonably approved by Sublandlord.

(a) Should any of the required insurance be provided under a claims-made form, Subtenant shall maintain such coverage continuously throughout the term hereof and, without lapse, for a period of one (1) year beyond the expiration or termination of this Sublease, to the effect that, should occurrences during the Term give rise to claims made after expiration or termination of this Sublease, such claims shall be covered by such claims-made policies.

(b) All liability insurance policies shall be endorsed to provide the following:

(i) Cover Subtenant as the insured and the Sublandlord and the Master Landlord as additional insureds.

(ii) That such policies are primary insurance to any other insurance available to the additional insureds, with respect to any claims arising out of this Sublease, and that insurance applies separately to each insured against whom claim is made or suit is brought. Such policies shall also provide for severability of interests and that an act or omission of one of the named insureds which would void or otherwise reduce coverage shall not reduce or void the coverage as to any insured, and shall afford coverage for all claims based on acts, omissions, injury or damage which occurred or arose (or the onset of which occurred or arose) in whole or in part during the policy period.

(iii) All policies shall be endorsed to provide thirty (30) days' advance written notice to Sublandlord of cancellation, non-renewal or reduction in coverage, mailed to the address(es) for Sublandlord set forth in Section 20.1 below.

16.3. **Proof of Insurance**. Subtenant shall deliver to Sublandlord certificates of insurance in form and with insurers satisfactory to Sublandlord, evidencing the coverages required hereunder, on or before the Commencement Date, and Subtenant shall provide Sublandlord with certificates thereafter at least thirty (30) days before the expiration dates of expiring policies. As to the insurance required pursuant to Section 16.1(b)(1) above, such certificate shall state, among other things, that such insurance coverage includes and shall cover Subtenant's indemnity obligations under Section 15.2 above. In the event Subtenant shall fail to procure such insurance, or deliver such certificates, Sublandlord may, at its option, procure the same for the account of Subtenant, and the cost thereof shall be paid to Sublandlord within five (5) days after delivery to Subtenant of bills therefor.

16.4. **No Limitation on Indemnities**. Subtenant's compliance with the provisions of this Section shall in no way relieve or decrease Subtenant's indemnification obligations herein or any of Subtenant's other obligations or liabilities under this Sublease.

16.5. **Lapse of Insurance**. Notwithstanding anything to the contrary in this Sublease, Sublandlord may elect in Sublandlord's sole and absolute discretion to terminate this Sublease upon the lapse of any required insurance coverage by ten (10) days advance written notice to Subtenant.

16.6. **Subtenant's Personal Property**. Subtenant shall be responsible, at its expense, for separately insuring Subtenant's Personal Property.

16.7. **Waiver of Subrogation**. Notwithstanding anything to the contrary contained herein, to the extent permitted by their respective policies of insurance, Sublandlord and Subtenant each hereby waive any right of recovery against the other party and against any other party maintaining a policy of insurance covering the Premises required hereunder and their contents, or any portion thereof, for any loss or damage maintained by such other party with

respect to the Premises, or any portion thereof or the contents of the same or any operation therein, whether or not such loss is caused by the fault or negligence of such other party. If any policy of insurance relating to the Premises carried by Subtenant does not permit the foregoing waiver or if the coverage under any such policy would be invalidated due to such waiver, Subtenant shall obtain, if possible, from the insurer under such policy a waiver of all rights of subrogation the insurer might have against Sublandlord or any other party maintaining a policy of insurance covering the same loss, in connection with any claim, loss or damage covered by such policy.

17. ACCESS BY SUBLANDLORD

17.1. Access to Premises by Sublandlord.

(a) General Access. Sublandlord reserves for itself and Sublandlord's Agents, the right to enter the Premises and any portion thereof at all reasonable times upon not less than twenty-four (24) hours oral or written notice to Subtenant (except in the event of an emergency) for any purpose.

(b) Emergency Access. In the event of any emergency, as reasonably determined by Sublandlord, Sublandlord may, at its sole option and without notice, enter the Premises and remain on the Premises throughout the period of such emergency, not to exceed seven (7) days. Sublandlord shall have the right to use any and all means Sublandlord reasonably considers appropriate to gain access to any portion of the Premises in an emergency, and Sublandlord shall have the right to alter or remove any Alterations or Subtenant's Personal Property as Sublandlord reasonably determines is necessary to respond to such emergency. In such case, Sublandlord shall not be responsible for any damage or injury to any such property, nor for the replacement of any such property and any such emergency entry shall not be deemed to be a forcible or unlawful entry onto or a detainer of, the Premises, or an eviction, actual or constructive, of Subtenant from the Premises or any portion thereof.

(c) No Liability. Sublandlord shall not be liable in any manner, and Subtenant hereby waives any claims, for any inconvenience, disturbance, loss of business, nuisance or other damage arising out of Sublandlord's entry onto the Premises, except damage resulting from the negligence or willful misconduct of Sublandlord or Sublandlord's Agents.

17.2. Access to Premises by Master Landlord. Subtenant acknowledges and agrees that Master Landlord shall have all of the rights of access to the Premises described in the Master Lease.

18. SURRENDER

18.1. Surrender of the Premises. Upon the termination of this Sublease, Subtenant shall surrender to Sublandlord the Premises in the same condition as will exist upon the satisfactory completion of the Required Improvements, ordinary wear and tear and damage by casualty excluded, and free and clear of all liens, easements and other encumbrances created or suffered by, through or under Subtenant. On or before any termination hereof, Subtenant shall, at

its sole cost, remove any and all of Subtenant's Personal Property from the Premises and demolish and remove any and all Alterations from the Premises (except for the Required Improvements or Alterations that Sublandlord agrees are to remain part of the Premises pursuant to the provisions of Section 7.3 above). In addition, Subtenant shall, at its sole expense, repair any damage to the Premises caused by Subtenant, including, without limitation, damage resulting from the removal of any of Subtenant's Personal Property or Alterations, and restore the Premises to their condition immediately prior to such removal. In connection therewith, Subtenant shall obtain any and all necessary permits and approvals, including, without limitation, any environmental permits, and execute any manifests or other documents necessary to complete the demolition, removal or restoration work required hereunder. Subtenant's obligations under this Section shall survive the termination of this Sublease. Any items of Subtenant's Personal Property remaining on or about the Premises after the termination of this Sublease may, at Sublandlord's option and after thirty (30) days written notice to Subtenant, be deemed abandoned and in such case Sublandlord may dispose of such property in accordance with Section 1980 et seq. of the California Civil Code or in any other manner allowed by Law.

If Subtenant fails to surrender the Premises to Sublandlord upon the termination of this Sublease as required by this Section, Subtenant shall Indemnify Sublandlord against all Losses resulting therefrom, including, without limitation, Losses made by a succeeding Subtenant resulting from Subtenant's failure to surrender the Premises.

18.2 Attractive Nuisances. In addition to the foregoing, if Subtenant terminates this Sublease under Sections 6.3, 8.1 or 12.2 above, Subtenant shall, prior to such termination secure the Premises to reasonably protect or warn any third parties of any dangerous conditions that may exist on the Premises and to protect Sublandlord from attractive nuisance liability.

19. HAZARDOUS MATERIALS

19.1. No Hazardous Materials. Subtenant covenants and agrees that, except for normal amounts of hazardous substances and petroleum products commercially used in marina operations, neither Subtenant nor any of Subtenant's Agents or Invitees shall cause or permit any material that, because of its quantity, concentration or physical or chemical characteristics, is deemed by any federal, state or local governmental authority to pose a present or potential hazard to human health or safety or to the environment, including, without limitation, any material or substance defined as a "hazardous substance," or "pollutant" or "contaminant" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA", also commonly known as the "Superfund" law), as amended, (42 U.S.C. Sections 9601 et seq.) or pursuant to Section 25281 of the California Health & Safety Code; any "hazardous waste" listed pursuant to Section 25140 of the California Health & Safety Code; any asbestos and asbestos containing materials other than materials that are part of the structure of any existing improvements on the Premises which is not disturbed by any activity of Subtenant or its Agents or Licensees, or are naturally occurring substances on, in or about the Premises; and petroleum, including crude oil or any fraction thereof, and natural gas or natural gas liquids ("Hazardous Material") to be brought upon, kept, used, stored, generated or disposed of in, on or about the Premises or transported to or from the Premises without the prior written approval of Sublandlord, which approval may be withheld in Sublandlord's sole and absolute discretion.

Sublandlord may from time to time request Subtenant to provide adequate information for Sublandlord to determine that any Hazardous Material permitted hereunder is being handled in compliance with all applicable federal, state or local Laws or policies relating to Hazardous Material (including, without limitation, its use, handling, transportation, production, disposal, discharge or storage) or to human health and safety, industrial hygiene or environmental conditions in, on, under or about the Premises and any other property, including, without limitation, soil, air and groundwater conditions ("Environmental Laws"), and Subtenant shall promptly provide all such information. Sublandlord and Sublandlord's Agents shall have the right to inspect the Premises for Hazardous Material and compliance with the provisions hereof at all reasonable times upon reasonable advance oral or written notice to Subtenant (except in the event of an emergency). Without limiting the foregoing, Subtenant acknowledges and agrees that it shall be bound by and will comply with the environmental protection provisions provided for in Section 13 of the Master Lease.

19.2. Subtenant's Environmental Indemnity. If Subtenant breaches any of its obligations contained in Section 19.1 above, or, if any act or omission or negligence of Subtenant or any of Subtenant's Agents or Invitees results in any spilling, leaking, pumping, pouring, emitting, discharging, injecting, escaping, leeching or dumping ("Release") of Hazardous Material in, on, under or about the Premises or the Property, without limiting Subtenant's general Indemnity contained in Section 15.2 above, Subtenant, on behalf of itself and Subtenant's Agents, shall Indemnify the Indemnified Parties, and each of them, from and against any and all enforcement, investigation, remediation or other governmental or regulatory actions, agreements or orders threatened, instituted or completed pursuant to any Environmental Laws together with any and all Losses made or threatened by any third party against Sublandlord, Sublandlord's Agents, or the Premises, relating to damage, contribution, cost recovery compensation, loss or injury resulting from the presence, Release or discharge of any Hazardous Materials caused by Subtenant or its Agents or Invitees, including, without limitation, Losses based in common law, investigation and remediation costs, fines, natural resource damages, damages for decrease in value of the Premises, the loss or restriction of the use or any amenity of the Premises and reasonable attorneys' fees and consultants' fees and experts' fees and costs ("Hazardous Materials Claims") arising during or after the Term of this Sublease and relating to such Release caused by Subtenant or its Agents or Invitees. The foregoing indemnity shall not include Losses arising as a result of pre-existing Hazardous Materials on, at, in or about the Premises unless and to the extent Subtenant or its Agents or Invitees causes the Release of or exacerbates the condition of such pre-existing Hazardous Materials. The foregoing Indemnity includes, without limitation, all costs associated with the investigation and remediation of Hazardous Material and with the restoration of the Premises or the Property to its prior condition including, without limitation, fines and penalties imposed by regulatory agencies, natural resource damages and losses, and revegetation of the Premises or other Sublandlord property. Without limiting the foregoing, if Subtenant or any of Subtenant's Agents or Subtenant's Invitees, causes or permits the Release of any non-pre-existing Hazardous Materials in, on, under or about the Premises or the Property, Subtenant shall, immediately notify Sublandlord if and when Subtenant learns or has reason to believe there has been any Release of Hazardous Material in, on or about the Premises, and shall, at no expense to Sublandlord, take any and all appropriate actions to return the Premises or other Sublandlord property affected thereby to the condition existing prior to such Release and otherwise investigate and remediate the Release in accordance with all Environmental Laws. Subtenant shall provide Sublandlord with written notice of and afford Sublandlord a full

opportunity to participate in any discussions with governmental regulatory agencies regarding any settlement agreement, cleanup or abatement agreement, consent decree, permit, approvals, or other compromise or proceeding involving Hazardous Material.

19.3. Master Landlord's Environmental Indemnity. The Parties hereby acknowledge and agree that, pursuant to Section 330 of Public Law 102-484, as amended, Master Landlord is required to hold harmless, defend and indemnify the Sublandlord and Subtenant from and against any suit, claim, demand, action, liability, judgment, cost or fee, arising out of any claim for personal injury or property damage (including death, illness, loss of or damage to property or economic loss) that results from, or is in any manner predicated upon, the release or threatened release of any hazardous substance, pollutant, contaminant, petroleum product, or petroleum derivative from or on the Premises as a result of Department of Defense activities at the Property. Accordingly, except as specifically provided in Section 19.2 above, Subtenant is not responsible for any remediation activities with respect to the presence of Hazardous Materials on the Premises prior to the Commencement Date.

19.4. Acknowledgment of Receipt of EBS and FOSL Reports. Subtenant hereby acknowledges for itself and Subtenant's Agents that, prior to the execution of this Sublease, it has received and reviewed the Environmental Baseline Survey ("EBS") and the Finding of Suitability to Lease ("FOSL") described in Section 7 of the Master Lease.

20. GENERAL PROVISIONS

20.1. Notices. Except as otherwise expressly provided in this Sublease, any notice given hereunder shall be effective only in writing and given by delivering the notice in person, or by sending it first class mail or certified mail with a return receipt requested or reliable commercial overnight courier, return receipt requested, with postage prepaid as follows:

Notice Address of Sublandlord:	Treasure Island Development Authority Treasure Island Project Office 401 Palm Avenue Building 1, Room 217 Treasure Island Attn: Executive director Tel. No.: (415) 274-0600 Fax No.: (415) 274-0299
with a copy to:	Office of the City Attorney City Hall, Room 234 1 Dr. Carlton B. Goodlett Place San Francisco, CA 94102 Attn: Michael S. Cohen Tel No.:415-554-4722 Fax No.: 415 554-4755

Notice Address of Subtenant:	Treasure Island Sailing Center Carisa Harris Adamson 3739 Balboa Street, PMB #188 San Francisco, CA 94121 Tel. No.: (415) 387-3243 Fax No.:
With a copy to :	P. Terry Anderlini Anderlini, Finkelstein & Emerick 400 So. El Camino Real, Suite 700 San Mateo, California 94402 Tel. No.: (650) 348-0102 Fax No.: (650) 348-0962
Notice Address of Master Landlord:	Commanding Officer (Code 24) Engineering Field Activity West Naval Facilities Engineering Command 900 Commodore Drive San Bruno, California 94066

Any Party hereunder may designate a new address for notice purposes hereunder at least ten (10) days prior to the effective date of such change. Any notice hereunder shall be deemed to have been given two (2) days after the date when it is mailed if sent by first class or certified mail, one day after the date it is made, if sent by commercial overnight carrier, or upon the date personal delivery is made, and any refusal by either Party to accept the attempted delivery of any notice, if such attempted delivery is in compliance with this Section 20.1 and applicable Laws, shall be deemed receipt of such notice.

20.2. **Security Deposit**. Subtenant represents and warrants that Subtenant has assumed the rights of the Foundation to the Five Thousand Dollars ($5,000) deposited by the Foundation as security for the faithful performance of all terms, covenants and conditions of the 1999 Sublease. Subtenant agrees that Sublandlord may continue to hold such $5,000 as security for Subtenant's faithful performance of all terms, covenants and conditions of this Sublease and that Sublandlord may (but shall not be required to) apply the security deposit in whole or in part to remedy any damage to the Premises caused by Subtenant, Subtenant's Agents or Subtenant's Invitees, or any failure of Subtenant to perform any other terms, covenants or conditions contained in this Sublease, without waiving any of Sublandlord's other rights and remedies hereunder or at Law or in equity. Should Sublandlord use any portion of the security deposit to cure any Event of Default by Subtenant hereunder, Subtenant shall immediately replenish the security deposit to the original amount, and Subtenant's failure to do so within five (5) days of Sublandlord's notice shall constitute a material Event of Default under this Sublease. Sublandlord's obligations with respect to the security deposit are solely that of debtor and not trustee. Sublandlord shall not be required to keep the security deposit separate from its general funds, and Subtenant shall not be entitled to any interest on such deposit. The amount of the security deposit shall not be deemed to limit Subtenant's liability for the performance of any of its obligations under this Sublease. To the extent that Sublandlord is not entitled to retain or apply

the security deposit pursuant to this Section 20.2, Sublandlord shall return such security deposit to Sublandlord within forty-five (45) days of the termination of this Sublease.

20.3. No Implied Waiver. No failure by Sublandlord to insist upon the strict performance of any obligation of Subtenant under this Sublease or to exercise any right, power or remedy arising out of a breach thereof, irrespective of the length of time for which such failure continues, no acceptance of full or partial Rent during the continuance of any such breach, and no acceptance of the keys to or possession of the Premises prior to the expiration of the Term by any Agent of Sublandlord, shall constitute a waiver of such breach or of Sublandlord's right to demand strict compliance with such term, covenant or condition or operate as a surrender of this Sublease. No express written waiver of any default or the performance of any provision hereof shall affect any other default or performance, or cover any other period of time, other than the default, performance or period of time specified in such express waiver. One or more written waivers of a default or the performance of any provision hereof shall not be deemed to be a waiver of a subsequent default or performance. The consent of Sublandlord given in any instance under the terms of this Sublease shall not relieve Subtenant of any obligation to secure the consent of Sublandlord in any other or future instance under the terms of this Sublease. The provisions of the Section 20.3 shall be mutual to the extent applicable.

20.4. Amendments. Neither this Sublease nor any term or provisions hereof may be changed, waived, discharged or terminated, except by a written instrument signed by the Parties hereto.

20.5. Authority. The person signing below for Sublandlord represents and warrants that Sublandlord is a non-profit, public benefit corporation, and an instrumentality of the State of California and the City and County of San Francisco, and that he or she has the right and authority to execute this Sublease. If Subtenant signs as a corporation, a partnership or a limited liability company, each of the persons executing this Sublease on behalf of Subtenant does hereby covenant and warrant that Subtenant is a duly authorized and existing entity, that Subtenant has and is qualified to do business in California, that Subtenant has full right and authority to enter into this Sublease, and that each and all of the persons signing on behalf of Subtenant are authorized to do so. Upon Sublandlord's request, Subtenant shall provide Sublandlord with evidence reasonably satisfactory to Sublandlord confirming the foregoing representations and warranties. Without limiting the generality of the foregoing, Subtenant represents and warrants that it has full power to make the waivers and releases , indemnities and the disclosure set forth herein, and that it has received independent legal advice from its attorney as to the advisability of entering into a sublease containing those provisions and their legal effect.

20.6. Joint and Several Obligations. The word "Subtenant" as used herein shall include the plural as well as the singular. If there is more than one Subtenant, the obligations and liabilities under this Sublease imposed on Subtenant shall be joint and several.

20.7. Interpretation of Sublease. The captions preceding the articles and sections of this Sublease and in the table of contents have been inserted for convenience of reference only and such captions shall in no way define or limit the scope or intent of any provision of this Sublease. This Sublease has been negotiated at arm's length and between persons sophisticated and

knowledgeable in the matters dealt with herein and shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the party responsible for drafting any part of this Sublease. Provisions in this Sublease relating to number of days shall be calendar days, unless otherwise specified, provided that if the last day of any period to give notice, reply to a notice or to undertake any other action occurs on a Saturday, Sunday or a bank or City of San Francisco holiday, then the last day for undertaking the action or giving or replying to the notice shall be the next succeeding business day. Use of the word "including" or similar words shall not be construed to limit any general term, statement or other matter in this Sublease, whether or not language of non-limitation, such as "without limitation" or similar words, are used. Unless otherwise provided herein, whenever the consent of Sublandlord is required to be obtained by Subtenant hereunder, Sublandlord may give or withhold such consent in its sole and absolute discretion.

20.8. **Successors and Assigns**. Subject to the provisions of Section 13 above, the terms, covenants and conditions contained in this Sublease shall bind and inure to the benefit of Sublandlord and Subtenant and, except as otherwise provided herein, their representatives and successors and assigns.

20.9. **Brokers**. Neither party has had any contact or dealings regarding the leasing of the Premises, or any communication in connection therewith, through any licensed real estate broker or other person who could claim a right to a commission or finder's fee in connection with the Sublease contemplated herein. In the event that any broker or finder perfects a claim for a commission or finder's fee based upon any such contact, dealings or communication, the party through whom the broker or finder makes a claim shall be responsible for such commission or fee and shall Indemnify the other party from any and all Losses incurred by the indemnified party in defending against the same. The provisions of this Section shall survive any termination of this Sublease.

20.10. **Severability**. If any provision of this Sublease or the application thereof to any person, entity or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Sublease, or the application of such provision to persons, entities or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each other provision of this Sublease shall be valid and be enforceable to the fullest extent permitted by Law.

20.11. **Governing Law**. This Sublease shall be construed and enforced in accordance with the Laws of the State of California.

20.12. **Entire Agreement**. This instrument (including the exhibits hereto, which are made a part of this Sublease) contains the entire agreement between the Parties regarding the interim subleasing of the Premises and supersedes all prior written or oral negotiations, discussions, understandings and agreements with respect thereto. The Parties further intend that this Sublease shall constitute the complete and exclusive statement of its terms and that no extrinsic evidence whatsoever (including prior drafts of this Sublease and any changes therefrom) may be introduced in any judicial, administrative or other legal proceeding involving this Sublease. Subtenant hereby acknowledges that neither Sublandlord nor Sublandlord's Agents have made any representations or warranties with respect to the Premises or this Sublease except as expressly set

forth herein, and no rights, easements or licenses are or shall be acquired by Subtenant by implication or otherwise unless expressly set forth herein.

20.13. Attorneys' Fees. In the event that either Sublandlord or Subtenant fails to perform any of its obligations under this Sublease or in the event a dispute arises concerning the meaning or interpretation of any provision of this Sublease, the defaulting party or the party not prevailing in such dispute, as the case may be, shall pay any and all costs and expenses incurred by the other party in enforcing or establishing its rights hereunder (whether or not such action is prosecuted to judgment), including, without limitation, court costs and reasonable attorneys' fees.

20.14. Time of Essence. Time is of the essence with respect to all provisions of this Sublease in which a definite time for performance is specified.

20.15. Cumulative Remedies. All rights and remedies of either party hereto set forth in this Sublease shall be cumulative, except as may otherwise be provided herein.

20.16. Survival of Indemnities. Termination of this Sublease shall not affect the right of either party to enforce any and all indemnities and representations and warranties given or made to the other party under this Sublease, nor shall it affect any provision of this Sublease that expressly states it shall survive termination hereof.

20.17. Relationship of Parties. Sublandlord is not, and none of the provisions in this Sublease shall be deemed to render Sublandlord, a partner in Subtenant's business, or joint venturer or member in any joint enterprise with Subtenant. This Sublease is not intended nor shall it be construed to create any third party beneficiary rights in any third party, unless otherwise expressly provided.

20.18. Non-Liability of Indemnified Parties' officials, employees and Agents. No elective or appointive board, commission, member, officer or employee of any of the Indemnified Parties shall be personally liable to Subtenant or its successors and assigns in the event of any default or breach by Sublandlord or for any amount which may become due to Subtenant or its successors and assigns, or for any obligation of Sublandlord under this Agreement.

20.19. Counterparts. This Sublease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

20.20. Master Landlord's Consent. This Sublease is expressly conditioned upon receipt of the written consent of Master Landlord

20.21. Consent by Sublandlord. Where consent of Sublandlord is required hereunder, Subtenant may rely on any written consent granted by Sublandlord's Executive Director or her designee.

21. SPECIAL PROVISIONS

21.1. **Signs**. Subtenant agrees that it will not erect or maintain, or permit to be erected or maintained, any signs, notices or graphics upon or about the Premises, without Sublandlord's prior written consent, which Sublandlord shall not unreasonably withhold or delay.

21.2. **Prevailing Wages**. With respect to the construction of the Required Improvements or any Alterations, any employee performing services for Subtenant shall be paid not less than the highest prevailing rate of wages as required by Section A7.204 of the City and County of San Francisco Charter and Sections 6.33 through 6.45 of the San Francisco Administrative Code, shall be subject to the same hours and working conditions, and shall receive the same benefits as in each case are provided for similar work performed in San Francisco, California.

21.3. **Public Transit Information**. Subtenant shall establish and carry on during the Term a program to encourage maximum use of public transportation by personnel of Subtenant employed on the Premises, including, without limitation, the distribution to such employees of written materials explaining the convenience and availability of public transportation facilities adjacent or proximate to the Building and encouraging use of such facilities, all at Subtenant's sole expense.

21.4. **Non-Discrimination in City Contracts and Benefits Ordinance.**

(a) Covenant Not to Discriminate. In the performance of this Sublease, Subtenant covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Subtenant, in any of Subtenant's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Subtenant.

(b) Sub-Subleases and Other Subcontracts. Subtenant shall include in all sub-subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to such sub-subtenant or other subcontractor in substantially the form of subsection (a) above. In addition, Subtenant shall incorporate by reference in all sub-subleases and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all sub-subtenants and other subcontractors to comply with such provisions. Subtenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Sublease.

(c) Non-Discrimination in Benefits. Subtenant does not as of the date of this Sublease and will not during the Term, in any of its operations in San Francisco or elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement

benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section 12B.2(b) of the San Francisco Administrative Code.

(d) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the Sublease of City property are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Subtenant shall comply fully with and be bound by all of the provisions that apply to this Sublease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Subtenant understands that pursuant to Section 12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Sublease may be assessed against Subtenant and/or deducted from any payments due Subtenant.

21.5. No Relocation Assistance; Waiver of Claims. Subtenant acknowledges that it will not be a displaced person at the time this Sublease is terminated or expires by its own terms, and Subtenant fully RELEASES, WAIVES AND DISCHARGES forever any and all Claims against, and covenants not to sue, Sublandlord, its departments, commissions, officers, directors and employees, and all persons acting by, through or under each of them, under any laws, including, without limitation, any and all claims for relocation benefits or assistance from Sublandlord under federal and state relocation assistance laws (including, but not limited to, California Government Code Section 7260 et seq.), except as otherwise specifically provided in this Sublease with respect to a Taking.

21.6. MacBride Principles - Northern Ireland. The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages then to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section 12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Subtenant acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

21.7. Tropical Hardwood Ban. The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood or tropical hardwood product.

21.8. Conflicts of Interest. Subtenant states that it is familiar with the provisions of Section 8.105 and 8.106 of the San Francisco Charter and certifies that it knows of no facts which would constitute a violation of such provisions. Subtenant further certifies that it has made a complete disclosure to the Sublandlord of all facts bearing on any possible interests, direct or indirect, which Subtenant believes any officer or employee of the Sublandlord presently has or will have in this Sublease or in the performance thereof or in any portion of the profits thereof. Willful

failure by Subtenant to make such disclosure, if any, shall constitute grounds for the Sublandlord's termination and cancellation of this Sublease.

21.9. Charter Provisions. This Sublease is governed by and subject to the provisions of the Charter of the City and County of San Francisco.

21.10. Prohibition of Tobacco Advertising Subtenant acknowledges and agrees that no advertising of cigarettes or tobacco products is allowed on any real property owned by or under the control of the Sublandlord, including the Premises and the Property. This prohibition includes the placement of the name of a company producing selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product. This prohibition does not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communication the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

21.11. Sunshine Ordinance. In accordance with Section 67.24(e) of the San Francisco Administrative Code, contracts, contractors' bids, leases, agreements, responses to Requests for Proposals, and all other records of communications between City or Sublandlord and persons or firms seeking contracts will be open to inspection immediately after a contract has been awarded. Nothing in this provision requires the disclosure of a private person's or organization's net worth or other proprietary financial data submitted for qualification for a contract, lease, agreement or other benefit until and unless that person or organization is awarded the contract, lease, agreement or benefit. Information provided which is covered by this Section will be made available to the public upon request.

21.12. Pesticide Prohibition. Subtenant shall comply with the provisions of Section 39.9 of Chapter 39 of the San Francisco Administrative Code (the "Pesticide Ordinance") which (i) prohibit the use of certain pesticides on City property, (ii) require the posting of certain notices and the maintenance of certain records regarding pesticide usage and (iii) require Subtenant to submit to Sublandlord an integrated pest management ("IPM") plan that (a) lists, to the extent reasonably possible, the types and estimated quantities of pesticides that Subtenant may need to apply to the Premises during the terms of this Lease, (b) describes the steps Subtenant will take to meet the City's IPM Policy described in section 39.1 of the Pesticide Ordinance and (c) identifies, by name, title, address and telephone number, an individual to act as the Subtenant's primary IPM contact person with the City. In addition, Subtenant shall comply with the requirements of Sections 39.4(a) and 39.4(b) of the Pesticide Ordinance as of January 1, 1999 and January 1, 2000, respectively.

21.13. Drug-Free Workplace. Subtenant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, possession or use of a controlled substance is prohibited on the Premises. Subtenant agrees that any violation of this prohibition by Subtenant, its Agents or assigns shall be deemed a material breach of this Sublease.

Sublandlord and Subtenant have executed this Sublease in duplicate as of the date first written above.

SUBTENANT:
TREASURE ISLAND SAILING CENTER FOUNDATION, a California nonprofit public benefit corporation

By
Name: _____
Its: _____

SUBLANDLORD:
THE TREASURE ISLAND DEVELOPMENT AUTHORITY

By: _____
Its: Executive Director

Approved as to Form:

_____
Deputy City Attorney

Approved:

_____
Base Conversion Manager
U.S. Navy
Engineering Field Activities West

Exhibit A
Master Lease

All correspondence in connection with
this contract should include reference to:

N6247498RP00P99

LEASE

BETWEEN

THE UNITED STATES OF AMERICA

AND

TREASURE ISLAND DEVELOPMENT AUTHORITY

FOR

THE SOUTH WATERFRONT AREA

NAVAL STATION TREASURE ISLAND

All correspondence in connection with
this contract should include reference to:

N6247498RP00P99

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Paragraphs

SIXTH AMENDMENT
TO LEASE AGREEMENT N6247498RP00P99
BETWEEN
THE UNITED STATES OF AMERICA
AND
TREASURE ISLAND DEVELOPMENT AUTHORITY

THIS LEASE AMENDMENT made this _____day of_____2000, by and between the UNITED STATES OF AMERICA, acting by and through the Department of the Navy, hereinafter called the "Government", and the TREASURE ISLAND DEVELOPMENT AUTHORITY, hereinafter called the "Lessee";

WHEREAS, the parties hereto, as of 4 September 1998, entered into Lease Agreement N6247498RP00P99 under the terms of which the Lessee uses certain real property for space located at the former Naval Station, Treasure Island; and

WHEREAS, the parties agree to amend the terms of the Lease Agreement.

NOW THEREFORE, in consideration of the terms, covenants and conditions hereinafter set forth; the following paragraph to Lease N6247498RP00P99 is hereby amended to reflect the following change;

Paragraph 2. **Term**, delete in its entirety and the following paragraph is inserted therefore:

"The term of this Lease shall be for a period of four (4) years beginning on 4 September 1998 and ending on 3 September 2002, unless sooner terminated in accordance with the provisions of Paragraph 14, Termination."

All other terms and conditions of the Lease Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have, on the respective dates set forth above duly executed this amendment to the Lease as of the day and year first above written.

UNITED STATES OF AMERICA

_____

Title_____

TREASURE ISLAND DEVELOPMENT AUTHORITY

_____

Title ANNEMARIE CONROY
Executive Director
Treasure Island Development Authority

APPROVED AS TO FORM:

_____
CITY ATTORNEY

Exhibit B
Drawing of Premises

Treasure Island Sailing Center

PROPOSED LAYOUT

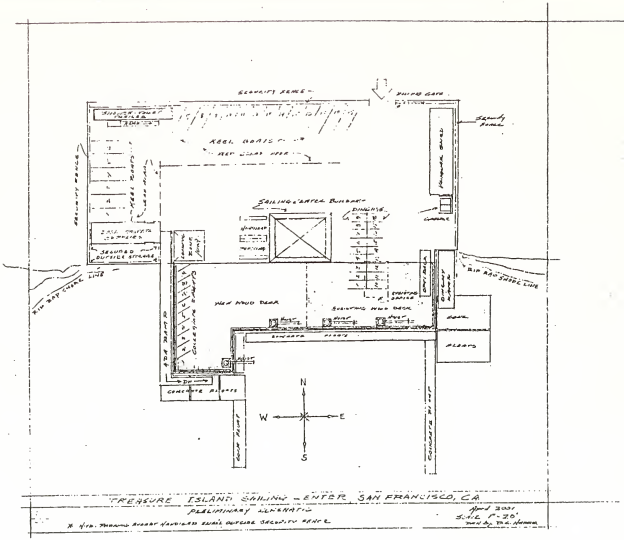

Exhibit C
Cover Sheet of Seismic Report

TREASURE ISLAND REUSE PLAN

EXISTING CONDITIONS REPORT: VOL. 2

PHYSICAL CHARACTERISTICS, BUILDING AND INFRASTRUCTURE CONDITIONS

AUGUST 1995

PREPARED FOR:
The Office Of Military Base Conversion,
Planning Department, City & County of San Francisco,
and the San Francisco Redevelopment Agency

PREPARED BY:
ROMA Design Group
Cerbatos & Associates Consulting Electrical Engineers
Cervantes Design Associates
Don Todd Associates, Inc.
Manna Consultants, Inc.
Moffatt & Nichol Engineers
Olivia Chen Consultants, Inc.
Takahashi Consulting Engineers
Treadwell & Rollo, Inc.

Minutes of Meeting
Treasure Island Development Authority
December 12, 2001

1. Call to order 1:06 PM

Roll Call Present: John Elberling
William Fazande
Marcia Rosen
Claudine Cheng
Gerald Green

Excused: Doug Wong
Susan Po-Rufino

2. The minutes of November 14, 2001 were approved with one abstention. John Elberling abstained from Voting because he was absent from the November 14, 2001 meeting.
3. No communications.
4. Executive Director's Report given by Annemarie Conroy:
Public Access: Oracle World held a major event on TI last week for between 5,000 & 7,000 people in Building 3. There are sixty weddings and thirty private parties scheduled for next year. We continue to facilitate senior bus tours of the Island.
Environmental Cleanup: The Navy is working on the south waterfront removing old fuel lines. There are air sampling at Bigelow Court to prepare units for TIHDI. The Navy is redrafting the EECA (Engineering Evaluation and Cost Analysis).
Short-term leases: The Authority will enter into a no-cost lease with the San Francisco Fire Fighters' toy program for storage.
Bay Bridge: Staff continues to work with Caltrans on the MOA with regards to the mitigation package and also on bus service.
Community Issues: Ms. Conroy comments on a newspaper article regarding the Job Corps opening a store on Treasure Island which neglected to mention that the Authority and Job Corps have been in a partnership on the store for at least a year. The Authority has provided Job Corps with the names of people interested or who were solicited to run a grocery store and many of them were at the Job Corps' pre-bid conference. Bus service is working fairly regularly. We hope to take plans for a dog park to the Community meeting next week.
Citizens' Advisory Board: There was no meeting in November, the next meeting will be on January 17, 2002.
TIHDI: Nothing new to report
Financial Report: No financial report.
Legislation & hearings affecting Treasure Island: Half of the salaries of all special assistants were placed on reserve. Treasure Island was separately placed on reserve for half of the salaries. The end of the year marks the sixth month. The Finance Committee meets next Wednesday to discuss the salary issue. We had a grant allocation for $800,000 as a request for the temporary construction of a landing at Pier 1, which Congresswoman Nancy Pelosi helped to secure at the Federal level.

tephen Proud, Development Director, states that staff continues to work on the distribution of a draft of the RFP by the end of December 2001 to the various agencies and the Authority, the CAB and any interested departments. By the week of February 18, 2002, all comments on the Draft RFP should be received by staff for revisions. Staff plans to present it to the Authority in its final form at the TIDA meeting in March.

5. General Public Comment:
Carrie Wonzer, TIHDI, is pleased to announce that TIHDI received an award in excellence for young non-profits, sponsored by the Management Center and Wells Fargo Banks. She states that the Sailing Center has been a huge asset to the residents in TIHDI supported housing. TIHDI supports the extension of their sublease.

6. Ongoing Business by Directors and Introduction of New Business by members: none

7. Resolution authorizing the Executive Director to amend the sublease with the Treasure Island Sailing Center for an additional two-year term.

Stephen Proud states that the Sailing Center started out on a month to month use permit basis. In November of 1999 we decided to get into a more formal arrangement and we brought, for your approval, a sublease that granted them some area around Pier 12. The initial focus of the Center was geared toward the training activities that were related to the Sidney Olympics. The focus has changed over time. The focus now is sailing instruction and youth sailing activities. There were over 250 kids participating in the sailing program last summer. The Sailing Center has been a host site for many national events including the NCAA sail center for the Cal Berkeley sailing team and many of the Pacific coast regattas. The sublease has been revised to reflect the new focus of the Center. We feel it is appropriate to consider another two-year term of the sublease. The term sheet for the Marina that we brought to you last month had a provision that required Treasure Island Enterprises to use best faith efforts to work out an arrangement with the Sailing Center so it could have a life once the new Marina is created. The most significant change in the sublease is that we are proposing that the premises be made available to the Sailing Center on a no-cost basis. They would continue to be obligated to pay all the normal charges, i.e., CAM charges, maintenance, taxes, etc. We retain a $5,000 security deposit that will roll over to the new sublease. There is still a balance of improvements that need to be done, some of which are "big ticket" items. They would be responsible for utilities.

Mr. Green asks for specifics on the "big ticket" items that need to be improved. Mr. Proud states that the costs of the ADA improvements are significantly more than previously thought. The alternative is that the Sailing Center will use the part of the Marina for its disabled students once the Marina is ADA accessible. We didn't think it was wise to spend a large amount of money on a facility that might ultimately be demolished or deconstructed.

Ms. Rosen appreciates the alternative solution. She assumes that should any disabled person want to take advantage of the program, the boat would be at an accessible slip.

Carissa Harris Adamson, President of the Sailing Center, states that their mission is to enhance the sport of sailing by providing instruction and accommodation for people of various skill levels and abilities. It is a training ground for novice and Olympic class sailors and provides a venue to host regional and international regattas. The collegiate sailors teach the novice sailors not only to sail but teach teamwork, leadership and other skills. Our adaptive sailing program really helps to give a sense of independence and self-confidence to disabled people. A description of the various programs follows.

Mr. Fazande asked about outreach to the youth of the community. Ms. Adamson replied that they contact organized youth programs, websites, recreation centers, etc.

Ms. Rosen asks is there some form of certification needed. Ms. Adamson replied not at this time. We hope to offer that in the future. We have an assortment of boats, as well as a sonar boat, which is adapted for people with disabilities. Our numbers grow as we get more boats donated.
Ms. Cheng asks about the cost of the program. Ms. Adamson replied the suggested donation to use the Center is $5 per hour but is not required.

Mr. Elberling asked about the programs budget and donors for the program. Ms. Adamson replied that the youth program budget was $24,000 last year just for the summer program. The entire budget is about $45,000/year. Our revenue sources are principally private donors. The staff is all volunteer.

Herb Meyer, Sailing Centerboard of directors, became a quadriplegic sailing on the bay eight years ago. He currently sails in the sonar 23. We are putting together a group to participate in the 2004 para-olympics in Athens.

Mr. Green asked if Mr. Meyer is okay with the temporary solution to accommodate access needs. Mr. Meyer replied that boats are launched at Piers 11 & 12 and brought over to the yacht harbor to board. That would work on a temporary basis. Discussion of ADA ramps follows.

Ida Brown, parent of TI veteran sailor, came into contact with the program through the Colombia Parks Boys and Girls Club. She is pleased that her daughter could be exposed to sailing. Her daughter speaks of her experiences.

Mr. Fazande moved approve. Ms. Rosen seconded. Approved 5-0

8. Election of Officers for the Treasure Island Development Authority Board.

Ms. Conroy states that Ms. Cheng was nominated for chair and Mr. Fazande was nominated for vice-chair. She thanks John Elberling for his years of service to Treasure Island and TIHDI.

Motion to elect Claudine Cheng as chair and Bill Fazande as vice-chair, seconded, carries unanimously.

Mr. Green moved approval. Ms. Rosen seconded. Approved 5-0

9. Adjourn 2:00PM